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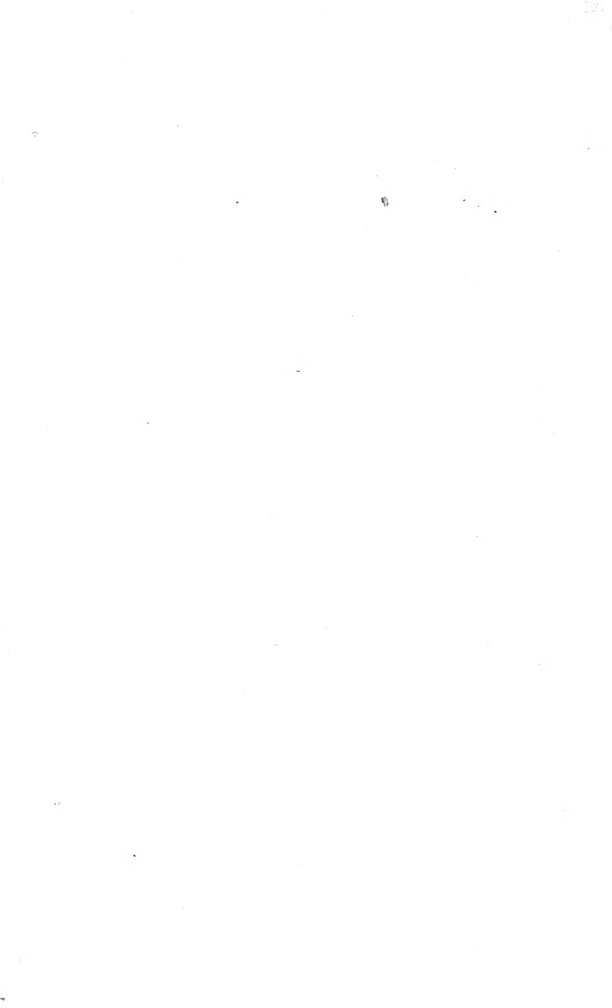
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EZRA STILES S.T.D. LL.D.

President of Yale College.

A
H I S T O R Y
OF THREE OF THE
J U D G E S
OF
KING CHARLES I.

MAJOR-GENERAL WHALLEY, MAJOR-GENERAL
GOFFE, and COLONEL DIXWELL :

WHO, AT THE RESTORATION, 1660, FLED TO AMERICA ;
AND WERE SECRETED AND CONCEALED, IN
MASSACHUSETTS AND CONNECTICUT,
FOR NEAR THIRTY YEARS.

WITH AN ACCOUNT OF
MR. THEOPHILUS WHALE, of Narragansett,
Supposed to have been also one of the Judges.

BY PRESIDENT STILES.

*They wandered about--being destitute, afflicted, tormented--they wandered
in deserts, and in mountains, and in dens and caves of the earth.*

—Of whom the world was not worthy.—

*Be not forgetful to entertain strangers : for thereby some have entertained
Angels unawares. Heb. xi. and xiii.*

HARTFORD : PRINTED BY ELISHA BABCOCK.

1794.

TO
ALL THE PATRONS OF
REAL, PERFECT, AND UNPOLLUTED LIBERTY,
CIVIL AND RELIGIOUS,
THROUGHOUT THE WORLD;
THIS HISTORY
OF THREE OF ITS MOST ILLUSTRIOUS AND HEROIC,
BUT UNFORTUNATE DEFENDERS,
IS HUMBLY SUBMITTED,
AND DEDICATED,
BY A HITHERTO UNCORRUPTED FRIEND
TO UNIVERSAL LIBERTY.

EZRA STILES.

YALE COLLEGE, }
Nov. 20, 1793. }



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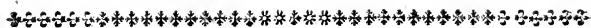
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H I S T O R Y OF THREE OF THE JUDGES OF KING CHARLES I.

WHO, ESCAPING ROYAL VENGEANCE, FOUND AN
ASYLUM IN NEW-ENGLAND, AND PARTICULARLY
IN CONNECTICUT.



CHAP. I.

Of the Three Judges separately, and before their Exile.

OF about one hundred and thirty Judges, appointed in the original commission, by the commons' House of Parliament, for the tryal of King Charles I. only seventy-four sat, and of these, sixty-seven were present at the last session, and were unanimous in passing the definitive sentence upon the King; and fifty-nine signed the warrant for his execution, 1649. Of these fifty-nine, about one-third, or twenty-four, were dead at the Restoration, 1660. Twenty-seven persons, Judges and others, were then taken, tried and condemned; some of which were pardoned, and nine of the Judges, and five others, as accomplices, were executed. Only sixteen Judges fled, and finally escaped: three of whom, Major-General EDWARD WHALLEY, Major-General WILLIAM GOFFE, and Colonel JOHN DIXWELL, fled and secreted themselves in New-England, and died here. One of the Judges pistoled himself in Holland, another fled to Laufanna, and was

assassinated there : what became of the rest is to me unknown, and perhaps is yet in undetected oblivion. I am to write the history of those three only, who fled to America and died here. These came to New-England, and found a friendly asylum and concealment in Massachusetts and Connecticut : and Col. Dixwell lies buried in New-Haven. I shall collect and digest the memoirs of these three Judges ; whose history being partly combined, and partly disconnected, may sometimes involve repetitions.

The æra is now arrived, when tribunals for the trial of delinquent Majesty, of Kings and Sovereign Rulers, will be provided for, in the future policies and constitutions of Sovereignities, Empires and Republics : when this heroic and high example of doing justice to criminal Royalty, of the adjudication of a King, will be recurred to and contemplated with justice and impartiality. And however it has been overwhelmed with infamy for a century and a half, will hereafter be approved, admired and imitated ; and the memoirs of these suffering exiles will be immortalized with honor.

A full account of them cannot yet be collected, as part of their history lies still concealed on the other side of the Atlantic. But although time and future researches may amplify the information concerning them, it is however presumed so much may be now collected, as may enable posterity and the world to form a just and true idea and estimate of the principles, designs and characters of these illustrious Worthies.

GENERAL WHALLEY.

“ The Whalleys are of great antiquity,” says the Reverend Mark Noble, in his memoirs of the family of CROMWELL. The General descended from the family of Whalley, which figured in England in the reign of Henry the sixth. Richard Whalley, Esq. of Kirkton, in the county of Nottingham, was a man of great opulence ; a member of parliament for Scarbo-

rough, 1 Edward VI. He died 1583, aged 84. His eldest son and heir, Thomas Whalley, Esq. by his wife Elizabeth, had several children; and among others, first, Richard, who married the Protector Oliver Cromwell's Aunt. Second, Walter Whalley, D. D. educated at Pembroke-Hall. Third, Thomas, educated in Trinity College, both of Cambridge. Richard Whalley, Esq. uncle to the Protector, succeeded his grandfather, of his name. He was a member of Parliament, 43. Eliz. He had three wives: His second was Frances, daughter of Sir Henry Cromwell, Hinckinbrooke, Knight, grandfather of the Protector, Oliver. He had issue only by the second, the Protector's aunt, who were, Thomas, Edward, one of King Charles' I. Judges, and Henry, the Judge Advocate. It is Edward, the second son of Richard by Frances, aunt to Oliver Cromwell, of whom I am now writing.

EDWARD WHALLEY, Esq. the Judge, being a second son, "was brought up to merchandize. No sooner did the contest between King Charles and his Parliament blaze out, than he (though in the middle age of life) took up arms in defence of the liberties of the subject: and this in opposition to the sentiments of his nearest relations. Probably his religious opinions determined him as much or more than any other consideration. And though the usage of arms must be new to him, yet he early distinguished himself in the parliament service, in many sieges and battles; but in none more than in the battle of Naishby, in 1645; in which he charged and entirely defeated two divisions of Langdale's horse, though supported by Prince Rupert, who commanded the reserve: for which Parliament, January 21, 1645—6, voted him to be a Colonel of Horse; and May 9, the following year, they gave him the thanks of the house, and £100. to purchase two horses, for his brilliant action at Banbury, which he took by storm; and afterwards marched to Worcester; which city surrendered to him July 23, following."

“ Feb. 3, 1747, the Commons granted him for his arrears, at the rate of fifteen years purchase, the manor of Flawborough, part of the estate of the Marquis of Newcastle, the annual rent of which was £400.”* This was redeeming part of his father’s estate purchased by the Marquis for a small part of its value.

“ Cromwell confided so much in him, that he committed the person of the King to his care. The loyalists have charged him with severity to his royal prisoner; but the monarch himself, in a letter he left behind him, when he made his escape, fully exculpates him from that charge.”

He was one of the commissioners appointed and authorised by Parliament, as the High Court of Justice, and sat in that august and awful Tribunal, to which Majesty was rendered amenable, and which had the intrepidity and fortitude to pass judgment on the life of a King; one of whose judges he thus was, and the warrant for whose execution he signed.

At the battle of Dunbar, September 3, 1650, he, with Monk, commanded the foot, and greatly contributed to the complete defeat of the Scotch army.—“ Cromwell left him in Scotland with the rank of Commissary-General, and gave him the command of four regiments of horse, with which he performed many actions, that gained him great honor.”

He continued a steady friend to his cousin Oliver, after he had raised himself to the sovereignty; and was entrusted by him with the government of the counties of Lincoln, Nottingham, Derby, Warwick, and Leicester, by the name of *Major-General*. He was one of the Representatives of Nottinghamshire, in the Parliament held in 1654 and 1656. The Protector made him Commissary-General for Scotland, and called him up to his other House.

* *Noble*, V. 1. 179.

“He was looked upon with jealousy by Parliament after the resignation of Richard the Protector, especially as he leaned so much to the interests of the army. For this reason they took from him his Commission.— This still endeared him the more to the army, who when Monk’s conduct began to be problematical, deputed him one of their commissioners to agree to terms of peace and amity with that in Scotland. But Monk, who knew his hatred to the royal family, and how much reason he had to dread their return, absolutely refused to treat with him.”

“The Restoration of monarchy soon after becoming visible, he saw the danger of the situation. For besides the loss of the estate he possessed of the Duke of Newcastle, and the manors of West-Walton and Torington, in the county of Norfolk, part of Queen Henrietta Maria’s jointure, which he had purchased, and whatever else estate he had, he knew even his life would be offered up to the shrine of the King, whom he had condemned to death: he therefore prudently retired.— September 22, 1660, a proclamation was published, setting forth, that he had left the kingdom, but as there was great reason to suppose he was returned, £100. was offered to any who should discover him in any of the British dominions, and cause him to be brought in alive, or dead, if he made any resistance. Colonel Goffe was included in this proclamation.”†

Here the European historians are lost. They represent that these two exiles escaped to the continent, and were at Lucerne, in Switzerland, in 1664; where some say that they died; others, that leaving that place, they privately wandered about for some years, and died in a foreign clime, but when or where unknown. But truly their remaining history, after they left England, 1660, is to be traced only in America.

† *Noble. P. 184.*

Mr. Noble gives this character of General Whalley : “ His valor and military knowledge were confessedly great ; his religious sentiments wild and enthusiastic. From a merchant’s counter to rise to so many and so high offices in the state, and to conduct himself with propriety in them, sufficiently evinces that he had good abilities : nor is his honesty questioned by any, which, as one of the King’s Judges, and a Major-General, would lay him open to a very narrow scrutiny.”

General Edward Whalley married the sister of Sir George Middleton, Knight, who was as great an enemy to King Charles I. as he was a friend to King Charles II. “ By her he had several children, and one born so late as 1656. What became of them is unknown, except John, his eldest son and heir, who was a cornet of horse, and who was returned member of Parliament for the town of Nottingham, 1658—9, and also for the borough of Shorcham. He married the daughter of Sir Herbert Springer, Knight, by whom he had Herbert Whalley, Esq. his eldest son and heir ; who, though King Charles II. granted the manor, the Parliament had given to the Major-General, once belonging to the Earl, then Marquis, then Duke of Newcastle, with all the rest of his own lands, forfeited to the Crown by any of the purchasers, yet this Herbert Whalley, Esq. was, 1672, in possession of some of the paternal inheritance of the Whalley’s which had been purchased by his Grace’s ancestors from them, but by mortgage which the Duke, when Earl, made to Sir Arnold Waring some years before, through assignments or heirships, became vested in this Herbert.”

Of Whalley’s children, Noble knew none but John. But he had a daughter who was married to General Goffe ; whom Goffe left in England, and with whom he kept up a constant correspondence, by the name of Mother Goldsmith, while in exile in New-England.

The last of his letters to her was dated at Hadley, 1679. Goffe had several children by her, whom he left in England.

Henry Whalley, brother of the Major-General, is said to have been an Alderman of London. From the regard his cousin Henry Cromwell, Lord-Deputy, had for him, he was promoted to the office of Judge-Advocate of the armies of England and Scotland before 1655. He continued in Scotland during the remainder of the protectorate of Oliver; and in 1656, represented the Sherifdom of Selkirk and Peebles in the British Parliament: and was one of those who signed the order for proclaiming his cousin Richard, Lord Protector.

In verification of Noble's account of the family and connections of Whalley, I add an extract from the *Fasti Oxonienses*, P. 90. "Oliver Cromwell had several uncles, whose descendants taking not part with him, only one or two, they were not preferred by him. He had also five aunts, the eldest of which, named Joane, was married to Francis Barrington, whose son Robert was countenanced by Oliver. The second named Elizabeth, was wife of John Hamden, of Hamden in Bucks, father of John Hamden, one of the five members of Parliament, excepted against by Charles I. and a Colonel for the Parliament in the beginning of the rebellion. Which John lost his life in their service in June 1643. By this match Oliver Cromwell came to be related to the Ingoldestbies, and Goodwins, of Bucks. The third, named Frances, was the second wife of Richard Whalley, of Kirton, in Nottinghamshire, father to Edward Whalley, a Colonel in the Parliament army, one of the King's Judges, Commissary-General in Scotland, one of Oliver's Lords, and a Major-General. He fled from justice upon the approach of the return of King Charles II. and lived and died in a strange land."

The heroic acts and achievements of Gen. Whalley

are to be found in all the histories of those times, in the records of Parliament, and the other original memoirs of Whitlock, Wellwood, Rushworth, and the periodical publications of that day, now before me. From all which it appears, that he was a man of true and real greatness of mind, and of abilities equal to any enterprize, and to the highest councils of the state, civil, political, and military: that he was a very active character in the national events, for twenty years in the great period from 1640 to 1660. He was a man of religion. It has been the manner of all the court historians, ever since the licentious æra of Charles II. to confound all the characters of religion with the irrational and extravagant fanaticism of that day, and of every age. But candour ought to confess, at least to believe, and even to know, that in the cause of liberty, in the Parliamentary cause, while there were many mad enthusiasts both in religion and politics, the great and noble transactions of that day, shew there was also great wisdom, great abilities, great generalship, great learning, great knowledge of law and justice, great integrity, and rational sincere religion, to be found conversant among the most vigorous and active characters of that æra. Among these WHALLEY ought to be ranked; and to be considered as a man of firmness in a good cause, and like Daniel at the Court of Persia, of a religion of which he was not ashamed; of an open, but unostentatious zeal, of real rational and manly virtue, a determined servant and worshipper of the most high God; of exemplary holiness of life; of fervent indeed, but sincere and undissembled piety. The commissioners of Nottinghamshire give this testimony: "They think themselves happy in having a person of so high merit sent down to them as Major-General Whalley, who is their native countryman, a gentleman of an honorable family, and of singular justice, ability, and piety."†

More. Polit. Jan. 17, 1665.

GENERAL GOFFE.

William Goffe, Esq. was a son of the reverend Stephen Goffe, a Puritan Divine, Rector of Stanmer, in Suffex. He lived with Mr. Vaughan, a dry salter in London, a great partizan of the Parliament, and a zealous Presbyterian. Disliking trade, and the war opening, he repaired to the parliament army; where his merit raised him to be a Quarter-Master, and then a Colonel of foot, and afterwards a General. He was a member of Parliament; and one of those who took up accusation against the eleven members, and who sentenced the King, and signed the warrant for his execution. He rendered the Protector great service, in assisting Colonel White in purging the parliament. For this and his other services he received Lambert's post of Major-General of foot. He was returned for Great Yarmouth in the Parliament of 1654; and for the county of Southampton in 1656. Last of all he was called up into the Protector's House of Lords. He was grateful to the Cromwell interest, and signed the order for proclaiming the Protector Richard. This attachment made him to be regarded by the Parliament, as well as army, with jealousy, after they began to be disposed to a return of monarchy. And Monk, who knew he was an enemy to the King's return, refused to admit him to treat with him, though sent by the English army. At the Restoration he left the kingdom with Whalley, whose daughter he married, and came with him to Boston in New-England, 1660.

There happened a remarkable diversity of religious sentiments in the family of Goffe. The father, the reverend Stephen Goffe was a serious, pious and learned Puritan Divine; and paid great attention to the education of his children. He gave an university education to two of his sons, John and Stephen: and although his son William was not liberally or academically educated, yet such were his abilities, and so well were they cultivated and improved by reading, observation and con-

verse with scientific subjects, and the great variety of literary life, that the University of Oxford conferred upon him the honorary degree of Master of Arts. In religion and piety he was very similar to his father-in-law, Whalley. Indeed, both Goffe and Whalley were exactly of the same religious sentiments with that eminent Puritan Divine, Dr. Owens, Vice-Chancellor of the University of Oxford, who was a Congregationalist. The Pædobaptist part of the dissenting interest in England, was unhappily divided into Presbyterians and Congregationalists, both unanimously agreeing in doctrines, and differing only on forms of church government, and yet generally very amicably differing, as knowing they were harmoniously agreed in all the great, essential, and most important things in religion. If any thing, the Independents, or Congregationalists, were then the most catholic and fraternal of the two. Oliver Cromwell, and these two Judges, were Congregationalists. While General Goffe's father was a Puritan, his brother John was a clergyman of the established church : his brother Stephen became agent for Charles II. in France, Flanders, and Holland, turned Roman Catholic, and became a priest among the Oratorians in Paris, and afterwards a chaplain to Queen Henrietta Maria : while William himself was the pious Congregational Puritan, exactly agreeing in religious sentiments with the first settlers of Boston and New-Haven.

I subjoin some extracts from the *Fasti Oxonienses*.
Page 79.

“ May 19. Colonel William Goffe, was then also presented by Zanchy, and created M. A. He was the son of Stephen Goffe, Rector of Stanmore in Suffex, and younger brother to John Goffe, mentioned among the writers, *An.* 1661, and to Stephen Goffe, mentioned in the *Fasti*, *An.* 1636. While this William was a youth, and averse to all kind of learning, he was bound an apprentice to one Vaughan, a salter in London, brother to Colonel Joseph Vaughan, a Parliamentarian,

and a zealous Presbyterian ; whose time being near, or newly out, he betook himself to be a soldier for the righteous cause, instead of setting up his trade, went out a Quarter-Master of Foot, and continued in the wars till he forgot what he had fought for. At length, through several military grades, he became a Colonel, a frequent prayer maker, preacher, and presser for righteousness and freedom, which in outward shew, was expressed very zealously, and therefore in high esteem in the Parliament army. In 1648, he was one of the Judges of King Charles I. fate in judgment when he was brought before the High Court of Justice, stood up as consenting when sentence passed upon him for his decollation, and afterwards set his hand and seal to the warrant for his execution. Afterwards, having, like his General (Cromwell) an evil tincture of that spirit that loved and sought after the favor and praise of man, more than that of God, as by woful experience in both of them it did afterwards appear, he could not further believe, or persevere upon that account, by degrees fell off from the anti-monarchical principles of the cheif part of the army, and was the man, with Colonel William White, who brought Musqueteers, and turned out the Anabaptistical members that were left behind of the *Little*, or *Barebone's* Parliament, out of the house, *An.* 1654. Complying thus kindly with the design and interest of the said General, he was by him, when made Protector, constituted Major-General of Hampshire, Suffex and Berks, a place of great profit, and afterwards was of one, if not of two Parliaments ; did advance his interest greatly, and was in so great esteem and favor in Oliver's Court, that he was judged the only fit man to have Major-General John Lambert's place and command, as Major-General of the army of foot, and by some to have the Protectorship settled on him, in future time. He being thus made so considerable a person, was taken out of the House to be a Lord, and to have a negative

voice in the other House, and the rather for this reason, that he never in all his life (as he used to say) fought against any such thing as a single person, or a negative voice, but only to pull down Charles and set up Oliver, &c. in which he obtained his end. In 1660, a little before the restoration of King Charles II. he betook himself to his heels to save his neck, without any regard had to his Majesty's proclamation, wandered about, fearing every one that he met should slay him; and was living at Laufanna in 1664, with Edmond Ludlow, Edward Whalley, and other regicides, when John Lisle, another of that number, was there by certain generous royalists dispatched. He afterwards lived several years in vagabondship, but when he died, or where his carcass was lodged, is as yet unknown to me."

The following is extracted from *Athenæ Oxonienses*.
Page 261.

"John Goughe, commonly called Goffe, son of the Rector of Stanmer, in Suffex, was born in that county, began to be conversant with the Muses in Merton College, *An.* 1624; made Demi of that of S. Mar. Magd. 1627, aged seventeen years, or more, Perpetual Fellow 29 July, 1630, being then Bachelor of Arts. Afterwards proceeding in that faculty, he entered into orders, and became a preacher in these parts. In 1642, September 26, he was inducted into the Vicarage of Hackington, alias S. Stephen, near to the city of Canterbury, in the place of James Hirst, deceased. From whence being ejected soon after for refusing the covenant, was, with other loyal clergymen, cast into the county prison in S. Dunstan's parish, in the suburbs of the said city. In 1652, he, by the endeavors of his brother William, whom I shall anon mention, was inducted into the Rectory of Norton, near Sittingbourne, in Kent, on the thirteenth day of March, and in the year 1660, he being restored to the Vicarage of S. Stephen, was actually created Doctor

of Divinity in the beginning of December in the same year, and inducted again according to the ceremonies of the church of England, into the Rectory of Norton, on the fourth of March following, which were all the Spiritualities he enjoyed.

“He hath written a book entitled, *Excelsiæ Anglicanæ Threenodia in qua perturbatissimus regni & ecclesiæ status, sub Anabaptistica tyrannide lugetur*, London, 1661. Oct. Also a large Latin Epistle written to Doctor Edward Simson, set before a book written by him, entitled, *Chronicon Catholicum &c.* London, 1652. Fol. He concluded his last day in the parish of Norton before mentioned, and was buried in the chancel of the church of S. Alphage in Canterbury, on the 26th day of November, in sixteen hundred sixty and one. This person, who was a zealous son of the Church of England, had an elder brother named Stephen Goffe, originally of Mert. Coll. afterwards of S. Alb. Hall, and a bigot of the Church of Rome; and another brother named William, whether elder or younger I know not, who was originally a trader in London, afterwards a Presbyterian, Independent, one of the Judges of King Charles I. and one of Oliver’s Lords; who, to save his neck from the gallows, did, upon a foresight of the King’s return, 1660, leave the nation, and died obscurely in a strange land. The father of the said Goffe, was Stephen Goffe, some time Bachelor of Arts of Magd. College, a good logician and disputant, but a very severe Puritan, eminent for his training up, while a tutor, several that proved afterwards very noted scholars; among whom must not be forgotten, Robert Harris, D. D. some time President of Trinity College, in Oxon.”

Further accounts of General Goffe, and his share and activity in the national administration, especially during the Protectorate, are to be found in the memoirs and histories of those times. Thus we have given a sum-

mary account of General Whalley and General Goffe, the parts they acted and the characters they sustained on the European theatre of life, and antecedent to their coming over to New-England. And certainly they were among the personages of the first eminence for great and noble actions in their day. They were both of Oliver's House of Lords ; and when we consider his singular penetration and sagacious judgment in discerning characters, and the abundance of great and meritorious characters strongly attached to his cause, from among which he had to select his counsellors, being in no necessity of selecting inferior abilities, the presumption is strong and just, that in themselves they were very distinguished and meritorious characters.

They had moved in a great sphere ; they had acted in a great cause, which might have been carried through, had national instability permitted it. But Monk, ever of dubious principles, and who had never been at heart a friend to the cause, turning up at the head of the army in the course of events by a certain casualty and fatality ; and resolving on a bold stroke for the abolition of this and the restoration of the former government ; and at the same time the nation, unhappily wearied out of the convulsions and struggles of civil war, in the very critical moment of the parturition of empire, when indeed had they been sensible of it the die was cast, the difficulty was over, and the policy already formed ; the nation, I say, becoming prepared for a revolution, it was obvious that great havock would be made among the most distinguished and active characters, and that these two judges must fall among the rest. It is very dangerous and unwise to trust supremacy into the hands of those who are not cordial in a great cause, be that cause just or unjust, and especially in a just and glorious cause. If opportunity presents, instead of its conservation and defence, it will certainly be betrayed and given up. It was so by Monk. The great cause of liberty was lost, overwhelmed and gone. The Judges

therefore seeing their fate inevitable, found it necessary to escape from England, exile themselves from their native country, and evanish into oblivion. Accordingly, seeing the complexion of Parliament, and that the Restoration was in effect determined and settled, just before it actually took place, they secretly withdrew themselves, and abdicated into New-England in 1660. Here they lived secreted together until they finished life : and therefore their remaining history must be considered together.



CHAP. II.

Their Exile, and living together in their various Lodgments in New-England, to their death.

I Shall now proceed to the History of the two Judges, in their exile and pilgrimages after their arrival together in New-England : and trace them in their concealments at New-Haven, Milford, Guilford and Hadley, to the last notices of them. This shall be arranged in two sections. 1. Their history for the first eleven months after their arrival, while they appeared publicly here ; and especially the dangerous period of the two last months of their public appearance, when they entirely abdicated, and were ever after totally lost from all knowledge of the public. 2. Their various pilgrimages in total oblivion and concealment from the public.

SECT. I. *The first eleven months of their public appearance, after their arrival at Boston.*

The most authentic account is taken from Goffe's journal or diary, for seven years from their departure from London, 1660, to 1667. It consisted of several pocket volumes in Goffe's own hand writing ; received

from the Ruffel family, and preserved in Dr. Cotton Mather's library in Boston. The Doctor's only son, Dr. Samuel Mather, married Governor Hutchinson's sister; by which means the Governor obtained Goffe's manuscript, and himself shewed me, in 1766, one of these little manuscript books in Goffe's own hand. It consisted of 55 leaves, or 110 pages, in small 12 mo. It began the first month of the year 1662, and was a diary of one whole year and a little more. It was written in characters, though not altogether in short hand, being a mixture of inverted alphabet and characters, easily decyphered: and contained news from Europe, and private occurrences with them at New-Haven and Milford. From this I then made some extracts. Mr. Hutchinson, from this and the other volumes, as well as from their manuscript letters, sundry original copies of which he shewed me, formed the summary abstract, which he published as a marginal note in the first volume of his History of Massachusetts, p. 215. first printed 1764. This may be depended upon as genuine information, and is as follows:

Governor Hutchinson's Account of Whalley and Goffe.

“ In the ship. † which arrived at Boston from London, the 27th of July, 1660, there came passengers, Colonel Whalley and Colonel Goffe, two of the late King's Judges. Colonel Goffe brought testimonials from Mr. John Row and Mr. Seth Wood, two ministers of a church in Westminster. Colonel Whalley had been a member of Mr. Thomas Goodwin's church. Goffe kept a journal or diary, from the day he left Westminster, May 4, until the year 1667; which together with several other papers belonging to him, I have in my possession. Almost the whole is in characters, or short hand, not difficult to decypher. The story of these persons has never yet been published to the world. It has never been known in New-England. Their papers, after their death, were collected, and have re-

† Capt. Pierce.

mained near an hundred years in a library in Boston. It must give some entertainment to the curious. They left London before the King was proclaimed. It does not appear that they were among the most obnoxious of the Judges : but as it was expected vengeance would be taken of some of them, and a great many had fled, they did not think it safe to remain. They did not attempt to conceal their persons or characters when they arrived at Boston, but immediately went to the Governor, Mr. Endicot, who received them very courteously. They were visited by the principal persons of the town ; and among others, they take notice of Colonel Crown's coming to see them. He was a noted Royalist. Although they did not disguise themselves, yet they chose to reside at Cambridge, a village about four miles distant from the town, where they went the first day they arrived. They went publicly to meetings on the Lord's day, and to occasional lectures, fasts, and thanksgivings, and were admitted to the sacrament, and attended private meetings for devotion, visited many of the principal towns, and were frequently at Boston ; and once when insulted there, the person who insulted them was bound to his good behaviour. They appeared grave, serious and devout ; and the rank they had sustained commanded respect. Whalley had been one of Cromwell's Lieutenant-Generals, and Goffe a Major-General. It is not strange that they should meet with this favorable reception, nor was this reception any contempt of the authority in England. They were known to have been two of the King's Judges ; but Charles the second was not proclaimed, when the ship that brought them left London. They had the news of it in the Channel. The reports afterwards, by way of Barbadoes, were that all the Judges would be pardoned but seven. The act of indemnity was not brought over till the last of November. When it appeared that they were not excepted, some of the principal persons in the Government were alarmed ; pity and

compassion prevailed with others. They had assurances from some that belonged to the General Court, that they would stand by them, but were advised by others to think of removing. The 22d. of February, 1661, the Governor summoned a Court of assistants, to consult about securing them, but the Court did not agree to it. Finding it unsafe to remain any longer, they left Cambridge the 26th following, and arrived at New-Haven the 7th of March, 1661. One Captain Bredan, who had seen them at Boston, gave information thereof upon his arrival in England. A few days after their removal, a hue and cry, as they term it in their diary, was brought by the way of Barbadoes; and thereupon a warrant to secure them issued, the 8th of March, from the Governor and Assistants, which was sent to Springfield and other towns in the western part of the colony; but they were beyond the reach of it."

The Governor adds in a long marginal note, "They were well treated at New-Haven by the ministers, † and some of the magistrates, and for some days seemed to apprehend themselves out of danger. But the news of the King's proclamation being brought to New-Haven, they were obliged to abscond. The 27th of March they removed to New-Milford, and appeared there in the day time, and made themselves known; but at night returned privately to New-Haven, and lay concealed in Mr. Davenport the minister's house, until the 30th of April. About this time news came to Boston, that ten of the Judges were executed, and the Governor received a royal mandate, dated March 5, 1660. to cause Whalley and Goffe to be secured. This greatly alarmed the country, and there is no doubt that the court were now in earnest in their endeavors to apprehend them: and to avoid all suspicion, they gave commission and instruction to two young merchants from England, Thomas Kellond and Thomas Kirk, zealous royalists, to go through the colonies,

† *Rev. John Davenport and Rev. Nicholas Street.*

as far as Manhados, in search of them. They had friends who informed them what was doing, and they removed from Mr. Davenport's to the house of one Jones, † where they lay hid until the 11th of May, and then removed to a mill, and from thence, on the 13th into the woods, where they met Jones and two of his companions, Sperry and Burril, who first conducted them to a place called Hatchet-Harbour, where they lay two nights, until a cave or hole in the side of a hill was prepared to conceal them. This hill they called Providence-Hill: and there they continued from the 15th of May to the 11th of June, sometimes in the cave, and in very tempestuous weather, in a house near to it. During this time the messengers went through New-Haven to the Dutch settlement, from whence they returned to Boston by water. They made diligent search, and had full proof that the regicides had been seen at Mr. Davenport's, and offered great rewards to English and Indians who should give information, that they might be taken; but by the fidelity of their three friends they remained undiscovered. Mr. Davenport was threatened with being called to an account, for concealing and comforting traitors, and might well be alarmed. They had engaged to surrender, rather than the country or any particular persons should suffer upon their account: and upon intimation of Mr. Davenport's danger, they generously resolved to go to New-Haven, and deliver themselves up to the authority there. The miseries they had suffered, and were still exposed to, and the little chance they had of finally escaping, in a country where every stranger is immediately known to be such, would not have been sufficient to have induced them. They let the Deputy-Governor, Mr. Leete know where they were; but he took no measures to secure them; and the next day some persons came to them to advise them not to surrender. Having publicly shewn themselves at New-Haven, they had cleared

† William Jones, Esq. afterwards Deputy-Governor of Connecticut.

Mr. Davenport from the suspicion of still concealing them, and the 24th of June went into the woods again to their cave. They continued there, sometimes venturing to a house near the cave, until the 19th of August—when the search for them being pretty well over they ventured to the house of one Tomkins, near Milford meeting-house, where they remained two years, without so much as going into the orchard. After that, they took a little more liberty, and made themselves known to several persons in whom they could confide, and each of them frequently prayed, and also exercised, as they termed it, or preached at private meetings in their chamber. In 1664, the commissioners from King Charles arrived at Boston—Upon the news of it, they retired to their cave, where they tarried eight or ten days. Soon after, some Indians in their hunting, discovered the cave with the bed; and the report being spread abroad, it was not safe to remain near it. On the 13th of October, 1664, they removed to Hadley, near an hundred miles distant, travelling only by night; where Mr. Ruffel, the minister of the place, had previously agreed to receive them. Here they remained concealed fifteen or sixteen years, very few persons in the colony being privy to it. The last account of Goffe, is from a letter, dated *Ebenezer*, the name they gave their several places of abode, April 2, 1679. Whalley had been dead some time before. The tradition at Hadley is, that two persons unknown, were buried in the minister's cellar. The minister was no sufferer by his boarders. They received more or less remittances every year, for many years together, from their wives in England. Those few persons who knew where they were, made them frequent presents. Richard Saltonstall, Esq. who was in the secret, when he left the country and went to England in 1672, made them a present of fifty pounds at his departure; and they take notice of donations from several other friends. They were in constant terror, though they had reason to

hope, after some years, that the enquiry for them was over. They read with pleasure the news of their being killed, with other judges, in Switzerland. Their diary for six or seven years, contains every little occurrent in the town, church, and particular families in the neighborhood. They had indeed, for five years of their lives, been among the principal actors in the great affairs of the nation : Goffe especially, who turned the members of the little Parliament out of the house, and who was attached to Oliver and to Richard to the last ; but they were both of low birth and education. They had very constant and exact intelligence of every thing which passed in England, and were unwilling to give up all hopes of deliverance. Their greatest expectations were from the fulfilment of the prophecies. They had no doubt, that the execution of the Judges was the slaying of the witnesses. They were much disappointed, when the year 1666 had passed without any remarkable event, but flattered themselves that the Christian æra might be erroneous. Their lives were miserable and constant burdens. They complain of being banished from all human society. A letter from Goffe's wife, who was Whalley's daughter, I think worth preserving. After the second year, Goffe writes by the name of *Walter Goldsmith*, and she of *Frances Goldsmith* ; and the correspondence is carried on, as between a mother and son. There is too much religion in their letters for the taste of the present day : but the distresses of two persons, under these peculiar circumstances, who appear to have lived very happily together, are very strongly described.

Whilst they were at Hadley, February 10, 1664—5, Dixwell, another of the Judges, came to them ; but from whence, or in what part of America he first landed, is not known. The first mention of him in their journal, is by the name of Colonel Dixwell ; but ever after they call him Mr. Davids. He continued some years at Hadley, and then removed to New-Haven.—

He was generally supposed to have been one of those who were obnoxious in England ; but he never discovered who he was, until he was on his death-bed. I have one of his letters signed James Davids, dated March 23, 1683. He married at New-Haven, and left several children. After his death his son, who before had been called Davids, took the name of Dixwell, came to Boston, and lived in good repute ; was a ruling elder of one of the churches there, and died in 1725, of the small-pox by inoculation. Some of his grand-children are now living. Colonel Dixwell was buried in New-Haven. His grave-stone still remains with this inscription,—“ J. D. Esq. deceased March 18th, in the 82d year of his age, 1688.”

It cannot be denied, that many of the principal persons in the colony greatly esteemed these persons for their professions of piety, and their grave deportment, who did not approve of their political conduct. Mr. Mitchell, the minister of Cambridge, who shewed them great friendship upon their first arrival, says in a manuscript which he wrote in his own vindication, “ Since I have had opportunity, by reading and discourse, to look a little into that action for which these men suffer, I could never see that it was justifiable.” After they were declared traitors, they certainly would have been sent to England, if they could have been taken. It was generally thought that they had left the country ; and even the consequence of their escape was dreaded, lest when they were taken, those who had harbored them should suffer for it. Mr. Endicot, the Governor, writes to the Earl of Manchester, that he supposes they went towards the Dutch at Manhados, and took shipping for Holland : and Mr. Bradstreet, then Governor, in December 1684, writes to Edward Randolph, “ that after their being at New-Haven, he could never hear what became of them.” Randolph, who was sent to search into the secrets of the government, could obtain no more knowledge of them, than that they had been



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Hutchinson Harbour, Lodge, Fort.
Left this Aug. 19. 1661.

Thomas Darling

Mr. Rich^d Sperry

Mr Ralph Lines

*MAP of NEW-HAVEN
and its Environs.*

Scale of Miles

Plate I. p 29.

*Mull** Judges here May 11, 1861

Beaver Ponds

Heights

Neck Bridge under which the
Judges lay hid while the Pursuers
passed over it May 13 1667

passed over
Here the
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Officer attempted
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Ferry 1661 crystal
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412 Rods measured 1780

Hatchet Harbour, Lodge, Fort.

Left this Aug. 19. 1661.

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in the country, and respect had been shewn them by some of the Magistrates. I am loth to omit an anecdote handed down through Governor Leverett's family. I find Goffe takes notice in his journal of Leverett's being at Hadley. The town of Hadley was alarmed by the Indians in 1675, in the time of public worship, and the people were in the utmost confusion.—Suddenly, a grave elderly person appeared in the midst of them.—In his mien and dress he differed from the rest of the people.—He not only encouraged them to defend themselves; but put himself at their head, rallied, instructed, and led them on to encounter the enemy, who by this means were repulsed.—As suddenly the deliverer of Hadley disappeared.—The people were left in consternation, utterly unable to account for this strange phenomenon. It is not probable they were ever able to explain it. If Goffe had been then discovered, it must have come to the knowledge of those persons, who declare by their letters that they never knew what became of him."†

Thus far Governor Hutchinson's narrative concerning these two persons; which is the more valuable, as being extracted from their journal, it must contain the most accurate information we can ever obtain. To this extract posterity must ever have recourse, since it is out of our power again to recur to the original journal, which with Goffe's other papers, in the Governor's hands, were irrecoverably lost when the Governor's house was demolished in the tumults of the Stamp Act, 1765. But that we may collect all he says in other parts of his history respecting these Judges, I shall subjoin another extract.

In 1664, four commissioners were appointed by the King, Colonel Richard Nichols, George Cartwright, Esq. Sir Robert Carr, and Samuel Maverick, Esq.—After the reduction of Mauhados, they returned to Boston, exhibited a number of articles to the General As-

† *Hutch. Hist. Mass. V. 1. p. 18.*

sembly of Massachusetts, on which they were charged by the King to make inquiry ; and to which the Assembly, in May 1665, make their answers. In answer to the tenth instruction, they say, " That they knew of no persons attainted of high treason, who had arrived here, except Mr. Whalley and Mr. Goffe, and they before the act of Parliament, and they departed this jurisdiction the February following, and a proclamation against them coming soon after by way of Barbadoes, the Court sent two gentleman, Mr. Kellond and Mr. Kirk, after them to Connecticut and New-Haven, to apprehend them."†

Hitherto we have proceeded upon accurate and authentic documents. I shall now collect and exhibit other scattered lights and traditionary information, preserved partly in the public fame which such an event would be likely to produce at New-Haven and Hadley, and partly in families whose ancestors were privy to the secrets of these men, and concerned in their concealments. These anecdotes, together with the description and delineation of their places of abode, may illustrate the history of these fugitive pilgrims.

Among the traditionary anecdotes and stories concerning the events, which took place at and about the time the pursuers were at New-Haven, are the following.

1. The day they were expected, the Judges walked out towards the neck bridge, the road the pursuers must enter the town. At some distance, the Sheriff or Marshal, who then was Mr. Kimberly, overtook them with a warrant to apprehend them, and endeavored to take them. But the Judges stood upon their defence, and placing themselves behind a tree, and being expert at fencing, defended themselves with their cudgels, and repelled the officer ; who went back to town to command help, and returned with aid, but found the Judges

† *Hutch. Hist. Mass.* p. 243.

had escaped, having absconded into the woods, with which the town was then surrounded.

2. That immediately after this, on the same day, the Judges hid themselves under the bridge one mile from town ; and lay there concealed under the bridge, while the pursuivants rode over it and passed into town : and that the Judges returned that night into town, and lodged at Mr. Jones's. All this, tradition says, was a preconcerted and contrived business, to shew that the Magistrates at New-Haven had used their endeavors to apprehend them before the arrival of the pursuers.

3. That on a time when the pursuers were searching the town, the Judges, in shifting their situations, happened, by accident or design, at the house of a Mrs. Evers, a respectable and comely lady : she seeing the pursuivants coming, ushered her guests out at the back door, who walking out a little ways, instantly returned to the house, and were hid and concealed by her in her apartments. The pursuers coming in, enquired whether the regicides were at her house ? She answered, they had been there, but were just gone away, and pointed out the way they went into the fields and woods, and by her artful and polite address, she diverted them, put them upon a false scent, and secured her friends. It is rather probable that this happened the next day after their coming to town : and that they then left the town, having shewn themselves not to be concealed in Mr. Davenport's, and went into the woods to the mill, two miles off, whither they had retired on the 11th of May.

4. The family of the Sperrys always tell this story : that while the Judges were at the house of their ancestor, Mr. Richard Sperry, they were surprized with an unexpected visit from the pursuers, whom they espied at a distance coming up a long causway to the house, lying through a morass, and on each side an impassible swamp, so that they were seen perhaps fifty or sixty

rods before they came up to the house. But the Judges escaped into the woods and mountains, and eluded their search. This story is current at New-Haven, and is always told, as what took place after the return of the pursuers from New-York, and so was unexpected to Sperry and the Judges. Governor Hutchinson says, the pursuivants returned from Manhados to Boston by water ; but the constant tradition at New-Haven is otherwise, and that they were here a second time, and that it was thought they got their information of their being at Sperry's, in consequence of the bribes they had scattered here, at their former visit, among servants.

5. About the time the pursuers came to New-Haven, and perhaps a little before, and to prepare the minds of the people for their reception, the reverend Mr. Davenport preached publicly from this text, *Isai. xvi. 3. 4. Take counsel, execute judgment, make thy shadow as the night in the midst of the noon day ; hide the out-casts, bewray not him that wandereth. Let mine out-casts dwell with thee ; Moab, be thou a covert to them from the face of the spoiler.* This doubtless had its effect, and put the whole town upon their guard, and united them in caution and concealment.

As Kellond and Kirk, besides the royal mandate, received a warrant from Governor Endicott at Boston, to make search through the colony of Massachusetts : so passing out of that jurisdiction into the jurisdiction of Connecticut, they obtained a similar warrant from the Governor, Winthrop, at New-London, and upon entering into the colony of New-Haven, they applied to Governor Leet, at Guilford, for a like warrant to search this jurisdiction also. They lodged at Guilford May 12th, and next day rode eight-en mile to New-Haven, and might enter the town about noon. The banks of the river at Neck-Bridge are low, and salt marsh on both sides, so that the bridge is low, being only high enough to avoid high water, which is here six to eight

fect tide ; so there could be no hiding under the bridge at high water. From the astronomical or lunar tables we find, that on the 13th May, 1661, the sun was in the second degree of gemini, and the moon in the first of aries, or about sixty degrees apart, and so about two days and half after the last quarter ; when it is always high water at New-Haven about, or a little after six o'clock, and low water about noon, the only time when they could have secreted themselves under the bridge, agreeable to tradition.

6. To shew the dexterity of the Judges at fencing, this story is told : That while at Boston, there appeared a gallant person there, some say a fencing-master, who on a stage erected for the purpose, walked it for several days, challenging and defying any to play with him at swords : at length one of the Judges, disguised in a rustic dress, holding in one hand a cheese wrapped in a napkin, for a shield, with a broom-stick, whose mop he had besmeared with dirty puddle water as he passed along : thus equipped, he mounted the stage :—The fencing-master railed at him for his impudence, asked what business he had there, and bid him be gone.—The Judge stood his ground—upon which the gladiator made a pass at him with his sword, to drive him off—a rencounter ensued—the Judge received the sword into the cheese, and held it till he drew the mop of the broom over his mouth and gave the gentleman a pair of whiskers—The gentleman made another pass, and plunging his sword a second time, it was caught and held in the cheese, till the broom was drawn over his eyes—At a third lunge, the sword was caught again, till the mop of the broom was rubbed gently all over his face.—Upon this the gentleman let fall, or laid aside his small sword, and took up the broad sword, and came at him with that—Upon which the Judge said, stop sir, hitherto you see I have only played with you, and not attempted to hurt you ; but if you come at me now with the broad-sword, know, that I will certainly

take your life. The firmness and determinateness with which he spake, struck the gentleman, who desisting, exclaimed, who can you be? You are either Goffe, Whalley, or the Devil, for there was no other man in England that could beat me. And so the disguised Judge retired into obscurity, leaving the spectators to enjoy the diversion of the scene, and the vanquishment of the boasting champion. Hence it is proverbial in some parts of New-England, in speaking of a champion at athletic and other exercises, to say that none can beat him but Goffe, Whalley, or the Devil.

I say nothing on a few variations in narrating this story—as that some say the scene was at New-York, where the fencer staked and offered a hat crown full of silver to the man that should beat him—The place certainly was Boston, if any where, for they never were out of New-England; and that the fencer discerned and recognized his master in the act of fencing, and desisted instantly, saying, you are my master, Colonel Goffe, who taught me fencing—You, sir, and no other man can beat me.

I shall now consider more particularly their critical situation at New-Haven, during the dangerous period of the last two months of their public appearance, and especially of the last month previous to their final abdication. But a summary view of the polity and spirit of the little republic of New-Haven colony, will be necessary to throw light upon these transactions; and without it these events will not be perfectly intelligible.

The colony of New-Haven jurisdiction, was begun 1637 and 1638. The settlers came over from England together, chiefly from London and its vicinities. They came three distinct congregations with their ministers; from the beginning intending to settle down in three distinct and separate townships; and to form and coalesce into one body politic, distinct from Massachusetts, Plymouth, and the other colonizations. They planted

down together at and about New-Haven, with these original views, which they carried into immediate execution. They therefore at their first coming to Boston, went beyond Massachusetts, and Connecticut then just settling also, to Quinipioke, with the view of settling, somewhere by themselves, within the Earl of Warwick's patent assigned to Lord Say and Seal, who held in trust for Puritan exiles. Here they pitched and settled their towns, and formed into a separate independent government; and framed their polity for themselves, one of the wisest ever devised by man. This embryo of a perfect republic was conceived by the concurrent wisdom of Governor Eaton, Goodyear, Newman, Leet, Desborough, and other sensible and patriotic civilians, and the three learned ministers, Davenport, Whitfield and Prudden.

Samuel Desborough, Esq. afterwards Lord Keeper of Scotland, was related to Major-General John Desborough, one of Oliver's Lords. He came over with the reverend Mr. Whitfield, was a magistrate, and at the head of the settlement of Guilford. He returned to England 1651; became "one of the commissioners of the revenues; the same year represented the city of Edinburgh in Parliament: at a council held at Whitehall, May 4, 1655, he was appointed one of the nine counsellors for the kingdom of Scotland; and the same year Keeper of the Great Seal of that nation, and allowed £2000. annually:—The year following he was returned a member of the British Parliament for the Sherifdom of Mid-Lothian; and was continued in all his employments under the Protector Richard."†—This shews him a man of political abilities to sustain so many and such high trusts with the reputation and acceptance with which he discharged them.

Upon amicable consultation, they devised this little system of policy, the miniature even of our present po-

† *Noble, Vol. 2. 254.*

licy, admitting an unfolding of itself into an enlargement and application even to the efficacious dominion of the largest republic. Their idea was to found and institute a general assembly, or a court of general jurisdiction, for legislation and dominion over all the towns, and a regulation of the subordinate interior local policy of the respective towns, left in this to themselves. Or, to invert the order of origination, the towns to govern themselves absolutely and independently as far as respected themselves:—In as far as respected the common public interest of all the towns, to institute an authoritative governmental and judicial Council, to which all should submit and be subordinated, so far as respected the common interest of the republic.

The General Court was to be constituted and consist of two branches; both elective in different modes by the people: The one to consist of deputies of the towns, elected twice a year by each town respectively; the other, by the name of Magistrates, consisting of a Governor, Deputy-Governor, and three or more others of abilities and patriotism, elected by the general voice of all the freemen annually. The concurrence of these two branches made a public act or law. The supreme administration, both civil and military, to be with the Governor or Deputy-Governor; the judiciary was in the Governor and Magistrates. The mode of election was thus: In April, preceding the election and session of Assembly, which was the last week of May, annually, the towns elected two deputies each; and at the same time nominated in each town, one or more persons for the Magistracy: but this was not election. In the first instance, each of the three towns nominated two persons; and their names were sent by the Governor to all the towns; which, on the day of election, were limited and confined to make their choice of Magistrates (not Governor nor Deputy-Governor) out of these perhaps half a dozen nominated persons, electing three usually, sometimes more, out of the whole, for

Magistrates. On the day of election a sermon was preached by one of the Ministers. It was originally designed that, however Moses and Aaron should walk together in co-operative harmony, yet the Ministers should not be eligible into the Magistracy. When all the freemen of all the towns were assembled on the day of election, they first chose a Governor and Deputy-Governor, not herein confined to the nomination ; then out of the nomination a Magistrate for each town, not as a representative for that town only, for they differed from the deputies, stood on general election, and were thereby become charged with the general interest of all the towns. They at the same time chose a Secretary, Treasurer and Marshal, out of a previous nomination of the towns as general officers. The choice thus annually finished upon the election day ; the general officers and town deputies formed themselves into an organized Assembly, or General Court, for the Jurisdiction. This for the Legislature and General Government.

For the executive administration, whether judicial or governmental, they established this system : Each town annually chose four deputies, or judges, for town Courts, distinct from deputies of the General Court : these sat in their respective towns, and acted judicially in all civil matters and lower felonies, much like the Justices for keeping the peace, and local for the town, or rather similar to our County Court Judges for the Counties. These four deputies, chosen by the towns, were reported or presented to the Assembly, who approved, empowered and established them : so that they became within the town districts, judiciary officers of the law, vested with civil authority and legal jurisdiction. There were then no Justices of peace in the colony. In each town was a Marshal ; and a military company whose chief officer was a Lieutenant, under the Governor, who was commander in chief. The Supreme Judiciary was a Court of Magistrates, first at New-Haven, to which

the whole colony was amenable ; consisting of the Governor, Deputy-Governor, and the three or more Magistrates. These had the cognizance and trial of all causes civil and criminal, being held to proceed according to strict law and justice, and according to the principles and spirit of the laws of England. It was a Court of original as well as appellate jurisdiction, but chiefly original, causes usually being brought before them in the first instance. With them, also, was the probate of wills, and all testamentary matters, and settlement of intestate estates. This Court administered justice with great firmness, impartiality, and dignity. It was in the constitution that this judiciary power should vest in the Magistracy, and not be the effect of an annual investiture by the Assembly. In the public records this judiciary Court was stiled the Court of Magistracy ; and the meetings of the General Assembly, are stiled General Courts, and were solely legislative and governmental, while the former were only executive and judicial. It belonged to the Governor in his double capacity of Governor of the colony, and chief judge or head of the Magistrates or Supreme Judiciary, to take cognizance of treason, and to execute the King's warrant for the apprehension of the Judges, had he received it in season, which he did not, and which as soon as he received it, he executed, so as to save himself and the colony from imputations.

Here we see a distinction between Deputies of the Town Courts, and Deputies of the General Court.—The former were the civil authority of the town, and on occasion were frequently consulted by the Governor and Court of Magistrates. These, not those of the General Assembly, were the Deputies which Governor Lect called in to advise with, when he and the Magistrates met at New-Haven, on the application of Kellond and Kirk for a warrant of search ; which application they refused, because they had as yet received no orders from the King's majesty.

Thus have I given a general and summary idea of the initial polity, legislative, judicial and governmental. Their laws and decisions were excellent, founded in justice and wisdom. The history of their laws and transactions, with a very few exceptions of undue, tho' conscientious rigidity, and yet far less oppressive than any other policy on earth, ancient or modern, would do honor to any national councils. As to their initial jurisprudence, it was a singular and judicious simplification of law, and recovery and emancipation of it, from the confused colluvies of European jurisprudence, involved and embarrassed with contradictory decisions in the accumulation of ages; a simplification as honorable to the jurist world, as to the republic of letters was the Newtonian discovery of the simple energetic laws of nature which operate with diffusive efficacy through the system, the simple principle of gravity, which commands the moon and the satellites, governs the planets and comets in their vast extended orbits, their lofty and magnificent revolutions. In 1656 they printed their little code of laws, and dispersed five hundred copies among all the freemen through the whole jurisdiction. If their laws and adjudications have been in some instances justly ridiculed and condemned; let it be remembered that there is no state in which it may not be easy for candid and liberal minds, and especially for a satirical and malicious Zoilus, to select at least a few laws and adjudged cases, which justly merit contempt, even when the general digest of their jurisprudence and law proceedings may be wise, just and excellent. Besides taking care for civil *policy*; they took care of *religion* and *learning*. From the beginning they by law established a ministry in each town, to be supported by the inhabitants; from the beginning, they by law established schools in each town for common education, the teaching of reading and writing, and arithmetic; and a colony grammar school to prepare youth for College. By 1654 Mr. Davenport brought forward the institution

of a College, to which the town of New-Haven made a donation of lands and meadows, distinguished to this day by the name of College Land. Upon a donation to this College in New-Haven, of perhaps £400 or £500 sterling, by Governor Hopkins, who died in London 1656, which donation was procured by the correspondence of Governor Eaton and Mr. Davenport with Mr. Hopkins, the General Assembly erected the Colony School into a College for teaching "the three learned languages, Latin, Greek and Hebrew;" and for "the education of youth in good literature, to fit them for public service in church and commonwealth;" and settled £40 a year out of the Colony treasury upon the preceptor or rector, besides the salary from New-Haven school, with £100 for a library. Mr. Davenport took the care of the Colony School for several years; until the Trustees, with the Magistrates and Ministers, in 1660, established the reverend Mr. Peck in it, according to act of the Assembly; who undertook and proceeded in it, teaching the learned languages and the sciences. But the convulsions of the times, the dissolution of the colony in 1664, the discouragements Mr. Peck met with for want of proper support, and the removal of Mr. Davenport from New-Haven to Boston in 1667, broke up the college—and left this well begun literary institution to go out and terminate in a public grammar school, upheld in this town, and holding the Hopkins' funds, and the other endowments of college estate, to this day. Yale College is a different institution, and not at all built upon the foundation of this first college, which became extinct in 1664, and especially long before 1700, when the present college was founded at Saybrook, and before 1717, when it was removed and settled in New-Haven. By this it appears what early attention was paid to literature by New-Haven colony, from its foundation and first settlement. Our ancestors seem to have paid an early attention to every thing that

respected the well ordering of society, as to laws, government, religion and literature.

Never was dominion and government more justly and firmly administered than in the colony of New-Haven, during the first twenty-five years from the original plantation of the colony to its consolidation with the colony of Hartford, or Connecticut, 1664; when New-Haven colony terminated, and was absorbed in the joint union of the two colonies of New-Haven and Connecticut, under the polity of the charter procured by Governor Winthrop in 1662; a polity very similar to that which had obtained at New-Haven from its original. Though it began with the three towns of New-Haven Milford and Guilford, as did Connecticut at the same time, with the three towns of Hartford, Windsor and Wethersfield; yet it was joined so early as 1642 by Stamford, while Stratford and Fairfield, about the same time, joined with Hartford: and 1648 New-Haven was joined by Southold, on the east end of Long-Island, and was in negotiation to be joined by Oyster-Bay. Before this, 1644, Totoket, or Branford, had sprung from New-Haven and Guilford, as had Paugasset, or Derby, from Milford and New-Haven, by 1658 or 1660, or about the time of the Judges, who sometimes, lodged there. At first, as I said, only three towns confociated: from 1643 to 1653, they were five; by the union of Southold, in 1654, they became six: and so continued a confederacy of six towns to the time of the Judges, and to the dissolution of the colony in 1664. So that here was the basis for a House of twelve deputies; which, with a Governor, Deputy-Governor, and three or four, and some times five Magistrates, formed the Senate of this little Sovereignty.

The state of the Magistracy was thus: Theophilus Eaon had been annually elected Governor, and Stephen Goodyear Deputy-Governor, from the beginning till 1657, when this was the magistracy:

Election, 27th 3d. m. 1657.

Theophilus Eaton, Governor.

Stephen Goodyear, Deputy-Governor.

Francis Newman,	}	Magistrates.
Mr. Lect,		
Mr. Fenn,		

Francis Newman, Secretary.

Mr. Wakeman, Treasurer.

Thomas Kimberly, Marshal.

Governor Eaton died in New-Haven 1657; and Deputy-Governor Goodyear died in London the year 1658. At the election, May 1658, Mr. Newman came in Governor, and Mr. Lect Deputy-Governor. Matthew Gilbert. Benjamin Fenn, and Jasper Crane, Magistrates: Wakeman Treasurer, William Gibbard, Secretary, and Kimberly Marshal. In 1659, the same, only Robert Treat, of Milford, instead of Mr. Fenn. In 1660 the same. Governor Newman died November 18, 1660: and at the accession of the Judges, March 1661, they stood thus:

William Lect, of Guilford, Deputy-Governor.

Matthew Gilbert, of New-Haven,	}	Magistrates.
Robert Treat, of Milford,		
Jasper Crane, of Branford,		

John Wakeman, Treasurer,	}	All of N. Haven.
William Gibbard, Secretary,		
Thomas Kimberly, Marshal,		

These, with the four deputies of New-Haven town court, were the principal men concerned in the transactions about the Judges. At the election, May 29, 1661, the critical time, the freemen concluded to augment the Magistracy to five, though for several years they had but three, besides the two Governors; and accordingly the election, 1661, stood thus:

Court of Election, 29th May, 1661. †

William Leet was chosen Governor.

Matthew Gilbert, Deputy-Governor.

Benjamin Fenn

Robert Treat,

Jasper Crane,

John Wakeman,

William Gibbard

} Chosen Magistrates

All took the oath of office but Mr. Wakeman and Mr. Gibbard, who resigned. Mr. Fenn took the oath "with this explanation (before the oath was administered, that he would take the oath to act in his place according to the laws of this jurisdiction. But in case any business from without should present, he conceived he should give no offence if he did not attend it : who desired that so it might be understood."

Roger Alling, Treasurer.

James Bishop, Secretary.

Thomas Kimberly, Marshal.—All for the year ensuing.

General Court, May 29, 1661.

Present,

The Governor.

Deputy-Governor.

Mr. Fenn, Mr. Treat, Mr. Crane.

Deputies.

Lieutenant Nash,

John Cooper,

John Fletcher,

Thomas Welch,

Mr. Robert Kitchell,

John Fowler,

Richard Law,

Francis Bell,

Barnabas Horton,

William Purrier,

Lieutenant Swaine,

Lawrence Ward,

} New-Haven.

} Milford.

} Guilford.

} Stamford.

} Southold.

} Branford."

† *New-Haven College Records.*

Having exhibited this synoptical view of the polity and government, I shall next make a chronological statement of events and occurrences to be afterwards verified and enlarged upon.

1660—1. *March 7.* The Judges arrived at New-Haven and appeared publicly, having in their way first called upon, and been hospitably received by Governor Winthrop; and been in like manner received by Governor Leet.

27. Went to Milford, as if departing for Manhados, or New-York; but returned in the night, and were secreted at Mr. Davenport's till the 30th of April, and at Mr. Jones's till 11th of May.

April. The King's warrant arrived at Boston;—where they had previously, upon seeing the King's proclamation from Barbadoes, in March, made a fictitious search through Massachusetts.

May 11. Removed from Jones's to the Mills, two miles from town. On the same day Kellond and Kirk arrived at Governor Leet's, with only the copy of the King's order, sent by the Governor of Boston; on which Governor Leet did not act decidedly: yet sent a letter to magistrate Gilbert, with advice of the town deputies, to search and apprehend. The Judges had notice, and left Jones's for the woods; yet designedly appeared twice afterwards, while the pursuivants were in town—First at the bridge, again at Mrs. Eyers's.

13. The pursuivants arrived in New-Haven. The Governor and Magistrates convene there the same day, and under great pressure and perplexity, the pursuivants demanding a warrant in the King's name for a general search—which was refused. On this day it is supposed the singular and dangerous events happened, partly before the Governor arrived in town, by the Marshals attempting to take the Judges near the bridge, which must have been by a warrant from Mr. Gilbert, though

not at first to be found—partly afterwards at Mrs. Eyers's. The Judges this day retired and went to Hatch-et-Harbor, and thence to the Cave prepared by Sperry, conducted by Jones and Burrell. After the pursuivants were gone, and before the session of Assembly, a thorough but illusory search was made by order of the Magistrates. The pressure so great and dangerous, that several declined serving in office the next Assembly and town court.

May 17. The Assembly convened speedily in four days after the pursuivants arrived in town, and perhaps in two days after their departure. To whom the Governor stating, that upon receiving the King's real order, he had issued a warrant, and had caused search to be made; every requisite seemed to have been already done, and so the Assembly had nothing further to do in the case.

29. Came on the General Election; when the Court found no necessity of doing any thing further about the Judges. Yet as the Governor and Mr. Gilbert were in danger, it was concluded that the Judges should surrender, which they stood ready to do.

June 11. The Judges left the Cave, and went over to Guilford to surrender themselves to the Governor: who, though he never saw them, yet lodged them several nights in his stone cellar, and sent them food, or they were fed from his table. Here and at Mr. Roffeter's they spent above a week, while it was deliberated whether the surrendery could or could not be put off, or at least deferred. Finally, their friends would not suffer them to surrender at this time; and it was concluded that they should retire again to their concealment. Upon which they returned to New-Haven.

June 20. They appeared publicly at New-Haven; and though cautiously, yet designedly.

24. They retired into the woods to their Cave, and never more came into open life, or out of concealment.

But wandering about and shifting their several harbors, were some times at Hatchet-Harbor, some times at Totoket, some times at Paugusset, and at three different places or lodgments behind the West-Rock, until the 19th of August, 1661, when they removed and settled in secrecy at Milford for two years. At times the places of their lodgments were secretly made known to the Governor, to whom they ever stood ready to surrender themselves.

July 4. The Governor and Magistrates of Massachusetts colony were greatly agitated both for themselves and for New-Haven. They wrote a fraternal but reprehensory letter to New-Haven. Upon which Governor Lect convened the General Assembly.

Aug. 1. The General Court met at New-Haven, and wrote an answer to Boston.

Sept. 5. Declaration of the Commissioners of the United Colonies, that search had actually been made in all the Colonies without success, and enjoining and ordering further search and apprehension. This very much ended the business, and the Judges left at rest, at least no further molested.

The New-Haven politicians of that day judged more justly and with deeper discernment, and acted with more ultimate firmness, on this great and trying occasion, than their brethren at Boston. While Boston trembled for them; they knew and felt themselves, from circumstances then unknown to Boston, to have conducted with safety and security in this dangerous situation. Having made this statement of facts, I proceed to adduce extracts from the public records, and traditionary elucidations upon them.

*“At a meeting of the General Court for the Jurisdiction,
May 17, 1661.*

“The Deputy-Governor declared to the Court the cause of the meeting, viz. that he had received a copy of a letter from his Majesty with another letter from

the Governor of the Massachusetts, for the apprehending of Colonel Whalley and Colonel Goffe, which letters he shewed to the Court, acquainted them that forthwith upon the receipt of them, granted his letters to the Magistrate of New-Haven, by the advice and concurrence of the Deputies, there to make present and diligent search throughout their town for the said persons accordingly ; which letters the messengers carried, but found not the Magistrate at home ; and that he himself followed after the messengers, and came into New-Haven soon after them, the 13th May, 1661, bringing with him Mr. Crane, Magistrate at Branford, who when they were come sent presently for the Magistrates of New-Haven and Milford, and the Deputies of New-Haven Court. The Magistrates thus sent for not being yet come, they advised with the Deputies about the matter, and after a short debate with the Deputies, was writing a warrant for search of the above said Colonels, but the Magistrates before spoken of being come, upon further consideration (the case being weighty) it was resolved to call the General Court, for the effectual carrying on of the work. The Deputy-Governor further informed the Court, that himself and the Magistrates told the messengers, that they were far from hindering the search, and they were sorry that it so fell out, and were resolved to pursue the matter, that an answer should be prepared against their return from the Dutch. The Court being met, when they heard the matter declared, and had heard his Majesty's letter, and the letter from the Governor of the Massachusetts, they all declared they did not know that they were in the colony, or had been for divers weeks past, and both Magistrates and Deputies wished a search had been sooner made, and did now order that the Magistrates take care and send forth the warrant, that a speedy diligent search be made throughout the Jurisdiction, in pursuance of his Majesty's commands, according to the letters received, and that from the several plantations a

return be made, and that it may be recorded. And whereas there have been rumors of their late being known at New-Haven, it hath been enquired into, and several persons examined, but could find no truth in those reports, and for any that doth appear, are but unjust suspicions, and groundless reports against the place, to raise ill surmises and reproaches." [N. H. Records.]

Those in administration at this critical time will appear by the following extracts from the public records.

"At a General Court held at New-Haven for the Jurisdiction, August 1st, 1661.

PRESENT,

The Governor,	
Deputy-Governor,	
Mr. Benjamin Sterne,	} Magistrates.
Mr. Robert Treat,	
Mr. Jasper Crane,	
	Deputies.
John Cooper,	} New-Haven.
James Bishop,	
John Fletcher,	
Thomas Welch,	} Milford.
Mr. Robert Kitchill,	
George Hubbard,	} Guilford.
Richard Law, Stamford.	
Lieut. Swaine,	} Branford.
Lawrence Ward,	

"The Governor informed the Court of the occasion of calling them together at this time; and among the rest, the main thing insisted upon was, to consider what application to make to the King in the case we now stood, being like to be rendered worse to the King than the other colonies, they seeing it an incumbent duty so to do. The Governor informed the Court also, that he had received a letter from the Council in the bay, which was read, wherein was intimated of sundry complaints in England made against New-England,

and that the committee in England take notice of the neglect of the other colonies in their non application to the King.

Now the Court taking the matter into serious consideration, after much debate and advice, concluded that the writing should be sent to the Council in the Bay, the copy whereof is as follows :

Honorable Gentlemen,

“Yours, dated the 4th of July, (61) with a postscript of the 15th, we received July 30th, which was communicated to our General Court, August 1st. We have considered what you please to relate of those complaints made against New-England, and of what spirit they are represented to be of, upon occasion of that false report against Captain Leveret, who we believe to have more wisdom and honesty than so to report ; and we are assured that New-England is not of that spirit. And as for the other colonies’ neglect in non application with yourselves, to his Majesty the last year, it hath not been forborne upon any such account, as we for ourselves profess and believe for our neighbors. But only in such new and accustomed matters, were in the dark to hit it in way of agreement, as to a former satisfaction that might be acceptable ; but since that of your colonies hath come to our view, it is much to our content, and we solemnly profess from our hearts to own and say the same to his Majesty ; and do engage to him full subjection and allegiance with yourselves accordingly, with profession of the same ends in coming with like permission and combining with yourselves and the other neighboring colonies, as by the preface of our articles may appear, upon which grounds we both supplicate and hope to find a like protection, privileges, immunities and favors, from his Royal Majesty. And as for that you note of our not so diligent attention to his Majesty’s warrant, we have given you an account of before, that it was not done out of any mind to slight

or disown his Majesty's authority, &c. in the least, nor out of favor to the Colonels, nor did it hinder the effect of their apprehending, they being gone before the warrant came into our colony, as is since fully proved ;— But only there was a gainfaying of the Gentlemen's earnestness who retarded their own business to wait upon ours without commission, and also out of scruple of conscience and fear of non faithfulness to our people, who committed all our authority to us under oath by owning a general Governor, unto whom the warrant was directed, as such, implicitly, and that upon misinformation to his Majesty given, though other Magistrates were mentioned, yet (as some thought) it was in or under him, which oversight (if so it shall be apprehended) we hope upon our humble acknowledgement his Majesty will pardon, as also that other and greater bewailed remission in one, in not securing them till we came and knew their place out of over much belief of their pretended reality to resume upon themselves according to their promise to save their country harmless, which failing is so much the more to be lamented, by how much the more we had used all diligence to press for such a delivery upon some of those that had shewed them former kindness, as had been done other where, when as none of the Magistrates could otherwise do any thing in it, they being altogether ignorant where they were, or how to come at them, nor truly do they now, nor can we believe that they are hid any where in this colony, since that departure or defeatment. But however the consequence prove, we must wholly rely on the mercy of God and the King, with promise to do our endeavor to regain them if opportunity serve. Wherefore, in this our great distress, we earnestly desire your aid to present us to his Majesty in our cordially owning and complying with your address, as if it had been done and said by our very selves, who had begun to draw up some thing that way, but were disheartened through want of skillfulness and incapacity to procure a meet

agent to present it in our disadvantaged state, by these providences occurring, hoping you will favor us in this latter and better pleasing manner of doing, which we shall take thankfully from you, and be willing to join in the proportionate share of charge for a common agent to solicit New-England's affairs in England, which we think necessary to procure the benefit of all acts of indemnity, grace, or favor, on all our behalfs, as well as in other respects to prevent the mischiefs of such as malign and seek to misinform against us, of which sort there be many to complot now-a-days with great sedulity. If you shall desert us in this affliction to present us as before by the transcript of this our letter or otherwise, together with the petition and acknowledgement herewithall sent, we shall yet look up to our God that deliverance may arise another way resting."

[*Extr. New-Haven Records.*]

Thus far had I written, when I thought of looking into Governor Hutchinson's Supplement, or Collection of Original Papers, edited by him, 1769, to see if I could collect some scattered lights. Upon this I found what I had read many years ago, but which was out of my mind, the pursuivants' Report, in which there is an elucidation of some dates and transactions already alluded to, and wherein there are some omissions, as respecting Mr. Davenport and the thorough examination of his house, and the search of other houses in town and the vicinity, the memoir of which is preserved in the uniform and constant tradition in New-Haven.

I shall proceed to give the copies of authentic documents, as well to illustrate the history, as to shew the pressing danger in which these hunted exiles were involved; and also to shew the distresses with which Mr. Davenport, and Governor Leet, and the Magistrates of New-Haven colony were incompassed, by their perseverance in protecting and concealing these meritori-

ous exiles—meritorious, if the cause in which they suffered was just.

Copy of a Report made to Governor Endicott, by Thomas Kellond and Thomas Kirk.

“ *Honorable Sir,*

“ We according to your honor’s order departed in search after Colonels Goffe and Whalley (persons declared traitors to his Majesty) from Boston May the 7th, 1661, about six o’clock at night, and arrived at Hartford the 10th day, and repaired to Governor Winthrop, and gave him your honor’s letter and his Majesty’s order for the apprehending of Colonels Whalley and Goffe, who gave us an account that they did not stay there, but went directly for New-Haven, but informed us that one Symon Lobden guided them to the town. The honorable Governor carried himself very nobly to us, and was very diligent to supply us with all manner of conveniencies for the prosecution of them, and promised all diligent search should be made after them in that jurisdiction, which was afterwards performed. The 11th day we arrived at Guilford, and repaired to the Deputy-Governor, William Leet, and delivered him your honor’s letter and the copy of his Majesty’s order for the apprehending of the aforesaid persons, with whom at that time were several persons. After the perusal of them, he began to read them audibly, whereupon we told him it was convenient to be more private in such concernments as that was ; upon which withdrawing to a chamber, he told us he had not seen the two Colonels not in nine weeks. We acquainted him with the information we had received that they were at New-Haven since that time he mentioned, and thereupon desired him to furnish us with horses, &c. which was prepared with some delays, which we took notice of to him, and after our parting with him out of his house and in the way to the ordinary, came to us one Dennis Scranton, and told us he would war-

rant that Colonels Goffe and Whalley at the time of his speaking were harbored at the house of one Mr. Davenport, a minister at New-Haven, and that one Goodman Bishop, of the town of Guilford, was able to give us the like account, and that, without all question, Deputy Leet knew as much, and that Mr. Davenport had put in ten pounds worth of fresh provisions at one time into his house, and that it was imagined it was purposely for the entertainment of them.

And the said Scranton said further, that Goffe and Whalley should say, that if they had but two hundred friends that would stand by them, they would not care for Old or New-England: Whereupon we asked if he would depose to that: He replied he would, that it was openly spoken by them in the head of a company in the field a training. Which words were also confirmed by several others, as also information that Goffe and Whalley were seen very lately betwixt the houses of Mr. Davenport and one Jones, and it was imagined that one lay at one of their houses, and the other at the other's. Upon which we went back to the Deputy's and required our horses, with aid, and a power to search and apprehend them; horses were provided for us, but he refused to give us any power to apprehend them, nor order any other, and said he could do nothing until he had spoken with one Mr. Gilbert and the rest of the Magistrates: Upon which we told him we should go to New-Haven and stay till we heard from him, but before we took horse the aforesaid Dennis Scranton gave us information, there was an Indian of the town wanting, which he told us was to give notice of our coming. But to our certain knowledge one John Megges was sent a horse-back before us, and by his speedy and unexpected going so early before day was to give them an information, and the rather because by the delays was used it was break of day before we got to horse, so he got there before us; upon our suspicion we re-

quired the Deputy that the said John Megges might be examined what his business was that might occasion his so early going ; to which the Deputy answered, that he did not know any such thing, and refused to examine him ; and being at New-Haven, which was the thirteenth day, the Deputy arrived within two hours or thereabouts after us, and came to us to the Court Chamber, where we again acquainted him with the information we had received, and that we had cause to believe they were concealed in New-Haven, and thereupon we required his assistance and aid for their apprehension : To which he answered that he did not believe they were there : Whereupon we desired him to empower us, or order others for it : To which he gave us this answer, That he could not, nor would not make us Magistrates : We replied, we ourselves would personally adventure in the search and apprehension of them in two houses where we had reason to imagine they lay hid, if they would give way to it and enable us : To which he replied, he neither would nor could not do any thing until the freemen met together. To which we set before him the danger of that delay and their inevitable escape, and how much the honor and service of his Majesty was despised and trampled on by him, and that we supposed by his unwillingness to assist in the apprehension, he was willing they should escape : After which he left us and went to several of the Magistrates and were together five or six hours in consultation, and upon breaking up of their Council, they would not nor could not do any thing until they had called a general Court of the freemen : Whereupon we represented to them your Honor's and Governor Winthrop's warrants as precedents, who upon the receipt of his Majesty's pleasure and order concerning the said persons, stood not upon such niceties and formalities, but endeavored to make all expedition in seizing on them, if to be found in their government, and also how your honor had recommended this grand affair to him, and how

much the honor and justice of his Majesty was concerned, and how ill his sacred Majesty would resent such horrid and detestable concealments and abettings of such traitors and regicides as they were, and asked him whether he would honor and obey the King or no in this affair, and set before him the danger which by law is incurred by any one that conceals or abets traitors ; to which the Deputy Leet answered, we honor his Majesty, but we have tender consciences.

To which we replied, that we believed that he knew where they were, and only pretended tenderness of conscience for a refusal : upon which they drew into consultation again, and after two or three hours spent, in the evening the Deputy and Magistrates came to us at the head of the stairs in the ordinary, and takes one of us by the hand, and wished he had been a ploughman and had never been in the office, since he found it so weighty.

To which we told him, that for their respect to two traitors they would do themselves injury and possibly ruin themselves and the whole colony of New-Haven, and still continuing to press them to their duty and loyalty to his Majesty, and whether they would own his Majesty or no, it was answered, they would first know whether his Majesty would own them.

This was the substance of our proceedings, there was other circumstantial expressions which are too tedious to trouble your honor withall, and which we have given your honor a verbal account of, and conceive it needless to insist any further ; and so finding them obstinate and pertinacious in their contempt of his Majesty, we came away the next day in prosecution after them, according to instructions, to the Governor of Manhados, from whom we received civil respects, and a promise, if they were within his jurisdiction, we should command what aid we pleased, but for sending of them according to your honor's request, he could

not answer it to his Masters at home, but if they came there he should give your honor timely notice: Whereupon we requested his honor the Governor of Manhados to lay a restraint upon all shipping from transporting them, which he promised should be done, and also to give order to his fiscal or chief officer to make private search in all vessels for them that were going thence.

Upon which we finding any other means would be ineffectual, we made our return hither by sea, to give your honor an account, and to which (when your honor shall require it) are ready to depose to the truth of it, and remain,

Sir,

Your honor's humble servants,

THOMAS KELLOND,

THOMAS KIRK.

Boston, May 29th, 1661.

30th May, 1661.

Mr. Thomas Kellond and Mr. Thomas Kirk having delivered this paper to the Governor as their return, in answer to what they were employed, deposed before the Governor and Magistrates, that what is there expressed is the truth, the whole truth, and nothing but the truth.

Per EDWARD RAWSON, Secretary."

Copy of a Letter from Secretary Rawson to William Lcet, Esq. Governor of New-Haven Jurisdiction.

"Honored Sir,

"The Council of our jurisdiction being assembled the 4th instant at Boston, ordered me to signify to you what lately they have received from England by Captain Leverett, his letter being dated 12th April, 1661, who tells us that however our address to his Majesty came seasonably, and had a gracious answer, yet many complaints and claims are multiplied against us, and that we are like to hear from his Majesty's committee

what those complaints are, and what is expected from us ; that an oath was produced against him for saying that rather than we should or would admit of appeals here, we would or should sell the country to the Spaniards : which though he absolutely denied that ever he so said, and that if he should have so said he had wronged his country very much, some of the said committee said the words if spoken they were pardoned, but they looked at the words not so much his as the spirit of the country, and though again he desired that the country might not suffer in their minds for what he knew was so much and so far from them, as to think ought in any such respect, yet one of them proceeded to question him, whether if we dared we would not cast off our allegiance and subjection to his Majesty : He answered, he did apprehend we were honest men and had declared in our application to his Majesty the contrary, and therefore could not have such thoughts of us without the breach of charity ; that it is no less than necessary we had some able person to appear for us, well furnished to carry on our business, which will not be without money : that the Council for plantations demanded of him whether we had proclaimed the King, and whether there was not much opposition to the agreeing of our application. He answered he knew not, only had heard Captain Bredan say so, but humbly submitted to their consideration, that neither we nor any other were to be concluded by debates, but by our conclusions, which were sent and presented to his Majesty in our names. They took notice, from enquiry, that it was only from one colony, namely, Massachusetts, and have their considerations of the other colonies neglected, to speak most favorably thereof. Thus far as to the letter. Further, I am required to signify to you as from them, that the non attendance with diligence to execute the King's warrant for the apprehending of Colonels Whalley and Goffe will much hazard the present state of these colonies and your own particularly, if not

some of your persons, which is not a little afflictive to them. And that in their understanding there remains no way to expiate the offence and preserve yourselves from the danger and hazard but by apprehending the said persons, who as we are informed are yet remaining in the colony and not above a fortnight since were seen there, all which will be against you. Sir, your own welfare, the welfare of your neighbors, bespeak your unwearied pains to free yourself and neighbors. I shall not add, having so lately by a few lines from our Governor and myself looking much this way communicated our sense and thoughts of your and our troubles, and have as yet received no return, but commend you to God, and his grace, for your guidance and direction in matter of such moment, as his Majesty may receive full and just satisfaction, the mouths of all opposers stopped, and the profession of the truth that is in you and us may not in the least suffer by your acting, is the prayer of, Sir,

Your assured loving friend,

EDWARD RAWSON, Secretary.

In the name and by order of the Council.

Boston, 4th July, 1661.

Sir, since what I wrote, news and certain intelligence is come hither of the two Colonels being at New-Haven, from Saturday to Monday and publicly known, and however it is given out that they came to surrender themselves and pretended by Mr. Gilbert that he looked when they would have come in and delivered up themselves, never setting a guard about the house nor endeavoring to secure them, but when it was too late to send to Totoket, &c. Sir how this will be taken is not difficult to imagine, to be sure not well; nay, will not all men condemn you as wanting to yourselves, and that you have something to rely on, at least that you hope will answer your ends? I am not willing to meddle with your hopes, but if it be a duty to obey such

lawful warrants, as I believe it is, the neglect thereof will prove uncomfortable. Pardon me, Sir, its my desire you may regain your peace (and if you please to give me notice when you will send the two Colonels) though Mr. Wood Greene is bound hence within a month, yet if you shall give me assurance of their coming I shall not only endeavor but do hereby engage to cause his stay a fortnight, nay three weeks, rather than they should not be sent, expecting your answer, remain,

Sir, your assured loving friend and servant,

EDWARD RAWSON."

Copy of the Declaration of the Commissioners of the United Colonies concerning Whalley and Goffe.

"Whereas it appeareth by his Majesty's order directed to John Endicott, Esq. Governor of the Massachusetts, and to all other Governors and Magistrates in New-England, and by him communicated to the respective Governors of the United Colonies, for the apprehending of Edward Whalley and William Goffe, who stand convicted of high treason for the horrid murder of his royal Father, as is expressed in the said order, and exempted from pardon by the act of indemnity ; in obedience whereunto diligent search hath been made for the said persons in the several colonies (as we are informed) and whereas, notwithstanding, it is conceived probable that the said persons may remain hid in some parts of New-England, these are therefore seriously to advise and forewarn all persons whatsoever within the said colonies, not to receive, harbor, conceal or succour the said persons so attainted, or either of them, but that, as they may have any knowledge or information where the said Whalley and Goffe are, that they forthwith make known the same to some of the Governors or Magistrates next residing, and in the mean time do their utmost endeavor for their apprehending and securing, as they will answer the contrary at their

utmost peril. And we do hereby further declare that all such person or persons, that since the publication of his Majesty's order have wittingly and willingly entertained or harbored the aforesaid Whalley and Goffe, or hereafter shall do the like, have and will incur his Majesty's highest displeasure, as is intimated in the said order, and will be accounted enemies to the public peace and welfare of the United Colonies, and may expect to be proceeded with accordingly.

By the Commissioners of the United Colonies, at their meeting at Hartford, Sept. 5, 1661.

JOHN MASON,
SAMUEL WILLIS,
WILLIAM LEET,
THOMAS PRINCE,
SYMON BRADSTREET,
DANIEL DENISON,
THO'S. SOUTHWORTH."

The King's Commissioners, who were Colonel Nichols, Cartwright, Carr, and Maverick, in their narrative about New-England, 1667, speaking of these Judges, say, among other accusations, "Colonels Whalley and Goffe were entertained by the Magistrates with great solemnity and feasted in every place, after they were told they were traitors, and ought to be apprehended; they made their abode at Cambridge until they were furnished with horses and a guide and sent away to New-Haven: for their more security, Captain Daniel Gookin is reported to have brought over and to manage their estates; and the Commissioners being informed that he had many cattle at his farm in the King's province, which were supposed to be Whalley's or Goffe's, caused them to be seized for his Majesty's use, till further order, but Captian Gookin, standing upon the privilege of their charter, and refusing to answer before the Commissioners, as so there was no more done in it: Captain Pierce who transported Whalley and Goffe into New-England, may probably say something to their estate."

By the pursuivants' report to Governor Endicot it appears, that they arrived at New-Haven 13th May; and it should seem that they left the town the next day, and this without any search at all; and particularly no mention is made of their interview with Mr. Davenport. But the constant tradition in New-Haven is, that they diligently searched the town, and particularly the house of Mr. Davenport, whom they treated with asperity and reprehension. Goffe's journal says, the Judges left the town the 11th May and went to the Mills, and on the 12th went into the Woods to Sperry's. It should seem that they were not in town while the pursuivants were here. But although the nights of the 11th and 12th they lodged at the mills, and on the 13th at Sperry's, they might purposely in the day time shew themselves at the bridge when the pursuivants passed it, and at Mrs. Eyers's in town the same or next day, in order to clear Mr. Davenport, and return at night to their concealment. The Sperrys are uniform in the family tradition that the surprizal of the Judges at their ancestor's house was by the pursuers from England, known and distinguishable, as they said, from our own people by their red coats; which could not have been if they staid in town but one day. Perhaps "the next day" in the Report, might not be that immediately following the 13th, but the next day after they found they could do nothing to purpose. On the one hand, it is improbable they would spend but one day in a town where they did not doubt the regicides, they came three thousand miles in quest of, were; and on the other hand, 'tis doubtful whether they would do much at actual searching themselves without the Governor's warrant, which was refused. They might however go into a few houses, as Mr. Davenport's, Mr. Jones's, and Mrs. Eyers's, and finding it in vain, give over further search. Governor Hutchinson says, "they made diligent search." And this has always been the tradition in New-Haven. But of this nothing is men-

tioned in the report, unless it may be alluded to in the "verbal account" given to Governor Endicott. The tradition is, that the pursuivants went to Sperry's house after their return from Manhados ; but this could not be if they went from thence by water to Boston ; unless returning again through New-Haven to Governor Winthrop at New-London, they might go from thence to Boston by water. But of this they take no notice in the report.

After the pursuivants were gone, and before 17th of May, the Magistrates caused a thorough though fictitious search to be made through the jurisdiction.— They sent to Totoket, or Branford. I have thought these pursuits, and these pursuers, might be the basis of the tradition respecting Mrs. Evers, the bridge, and Sperrys. But most that tell the story from ancient tradition, persist in it, that they were the pursuers from Boston, or the King's pursuers, and not our own people, which visited and searched both Sperrys and Evers. But enough of this matter, which can never be satisfactorily cleared and ascertained : While it is certain the pursuivants came here, had an interview with the Magistrates to no purpose : and that the Judges ceased to lodge in town on the 11th of May, two days before they came ; and so Governor Leet might say very truly on the 13th, that he did not believe they were in town, and indeed might have every reason to think at that time, that they were absconded into the environs or the woods beyond the West-Rock. All tradition agrees that they stood ready to surrender rather than that Mr. Davenport should come into trouble on their account ; and they doubtless came into town with this intention about 20th June, and tarried in town from Saturday till Monday for this end, and Mr. Gilbert expected their surrendery. But in this trying time their friends, for their sakes adventured to take the danger upon themselves, and risque events. A great, a noble, a trying act of friendship ! For a good man, one would

even dare to die ! Great was the peril especially of Leet, Davenport, and Gilbert ! Inveterate the resentment of Kellond and Kirk ! and pointed and pressing the remonstrances of the Governor and Secretary of Boston. The Magistrates of New-Haven colony were truly brought into great straits--The fidelity of their friendship heroic and glorious ! Davenport's fortitude saved them !

Here follows a collection of scattered information.

Mrs. Sherman, relict of Mr. James Sherman, aged 86, a descendant from Governor Leet, whose daughter married a Trowbridge, from whom Mrs. Sherman. She tells me she was born in Governor Jones's or in Governor Eaton's house, which had nineteen fire-places, and many apartments ; where Goffe and Whalley used to reside ; that Mr. Davenport's house also had many apartments, and thirteen fire-places, which indeed I myself well remember, having frequently, when a boy, been all over the house. She says she knew John Dixwell, son of the regicide. She has the whole family history of the three Judges as in the families of Mansfield, Prout, and Trowbridge. She was, as I said, of the Trowbridge family. She was intimately acquainted with Mrs. Eyers, and is full of the story of the Judges being secreted at her house, which was repeatedly searched for them. It is necessary to observe that this house was twice searched, and the circumstances are a little blended in the different narratives. The first was by the pursuivants, when the Judges went out at the back door, and returned and were secreted in the closet while the pursuivants were in the house.—The other was immediately after the pursuivants left the town, and between the 14th and 17th of May, when the search was made by Governor Leet's orders : when the doors were all set open, and Mrs. Eyers left the house for the searchers to come in and examine every room : this was by our people. In narrating these cir-

cumstances they are sometimes varied. Mrs. Sherman considers and speaks of the search, not as once only, but at several or different times. She says Mrs. Eyers had on one side of the room a large wainscotted closet, which she has often viewed and admired: it had cut lights at top, full of pewter and brass, and a wainscot door, which, when shut, could not be distinguished from the wainscot, and all over the door, and on the outside of the closet, was hung braizery and elegant kitchen furniture, that no one would think of entering the closet on that breast-work. Here she hid the Judges. — It seems to her as if it was more than once. — That they used to frequent the house on Saturdays afternoon, when sometimes she shut them up, and then opened all the doors, and walked abroad, leaving all open for the pursuivants to search. In this connexion I asked her, whether the pursuers were foreigners or New-Haven people? She said, she took it they were not foreigners, but our own officers. Here she seems a little to blend the circumstances. Which may be easily explained, by considering the first search, made by the pursuivants, and the last two days after by our officers, to whom she might throw open all the doors but the closet door.

She says Mrs. Eyers, and her son and daughter, lived together all to great old age—that she died about the hard winter, November 17, 1740, when she must have been above an hundred years old; and her son and daughter were seventy or eighty years old at the old lady's death. Mother and children so remarkable for longevity, that the reverend Mr. Cooke (Mrs. Sherman's father) used familiarly to enquire, how the good old folks of that house did, where death did not enter? So much has been said of Mrs. Eyers, that I will add this characteristic description of her:

Mrs. Sherman described Mrs. Eyers, though not without imperfections, yet an excellent person; as a

small woman, of a sweet and pleasant temper, and of the greatest propriety of manners, to use her expressions, very genteel and respectable, universally esteemed and beloved, never did any thing wrong, but always with propriety and gracefulness, was much of a gentlewoman, neat, elegant, beautiful, comely and graceful, admired by all gentlemen of Character, and her acquaintance from abroad, who coming to town, would get some of the genteelest people in town to go with them to pay her a visit.—And every one, high or low, always profited by her, were improved, instructed, and edified by her conversation, and pleased when they could visit and spend an hour at her house.—That she was rather reduced the latter part of her life, yet had the richest of apparel and furniture—Used to keep shop, but left off several years.—That her intellectual powers were clear to the last—An excellent christian. I use Mrs. Sherman's words in this description, writing them from her lips. She adds, that her father was Mr. Isaac Allerton, of Boston, a sea Captain, who came early and settled in New-Haven, and built a grand house on the creek with four porches, and this with Governor Eaton's, Mr. Davenport's, and Mr. Gregson's, were the grandest houses in town. The house highly finished: he had a fine garden with all sorts of flowers, and fruit-trees, and in the best cultivation. Mr. Evers was also a sea Captain, pursuing foreign voyages up the Mediterranean and to the wine islands, and always had his cellar stored with wines and good liquors, and used to bring home much produce and foreign manufactures, and elegant Nuns' work. Both went long voyages, and both died abroad at sea near together, leaving her a young widow, who never married again. She possessed her father's, brother's, and husband's estates. This respecting Mrs. Evers. It is the strong and current tradition that the Judges were sequestered at her house, some say in a chamber, some in a closet, probably both true.

Mr. Joseph Howell, merchant, tells me his grandfather Howell died here about 1772, aged 88.—That he came from Long-Island to live at New-Haven, *Æt* 13.—That he has often heard him tell about the Judges, and that his grandfather used to say he knew two men that helped in laying out Dixwell, and he shewed this grandson Dixwell's grave. He told him the story of Goffe and Whalley's hiding themselves under the Neck Bridge, and being under it while the pursuivants rode over it; and that they were the pursuers from Boston. Mr. Howell was intimate with Mr. Prout, who married his sister.

Captain Willmot, aged 82, remembers the story of their being hid in Mrs. Evers's house when the pursuers came there. He remembers the old house, that it was grand, like Mr. Davenport's, which he also knew, and all of oak and the best of joiner's work. There was more work and better joiner-work in these houses, he says, than in any house now in town. He is a joiner, and helped to pull down Mrs. Evers's house.

Judge Bishop, now mayor of the city of New-Haven, aged 70, tells me he received from his aged grandfather Bishop, with whom he lived from his youth up, son of the Governor, and who died 1748, aged 82, the tradition concerning the Judges being hid under the bridge, and that the pursuivants were those who were sent from England. The Judge remembers Mrs. Evers. She was a small, plump, round woman, a worthy character. He remembers her old house, which he says was one of the grandest in town, like Mr. Davenport's, and fit for a nobleman. She left three children, Simon, Lydia, and Benjamin. Simon was a considerable reader, and a great historian, and used oftentimes to spend the evening at his Grandfather's, and converse upon old affairs. He has listened to their conversation many an hour. Benjamin settled on Long-Island.

General Ward, of Guilford, tells me it is the constant tradition at Guilford, that the two Judges, Goffe and Whalley, were secreted three or four days, or more, in Governor Leet's stone cellar; and that the Governor and all the family of the Leet's were resolute and courageous. The reverend Mr. Fowler, and Henry Hill, Esq. of Guilford, concur in this and the general history of the Judges, and particularly the Angel story, that of hiding under the bridge, and the humorous story of playing with the sword, or the fencing story. The same have been told me by Major Davenport, of Stamford, descended from the venerable patriarch at New-Haven; by the reverend Mr. Whitney, of Brooklyn, in the eastern part of the Government, and the reverend Mr. Bray, and others; indeed these stories are to be found scattered and circulating all over New-England to this day.

Stephen Ball, Esq. tells me, that when the pursuers were here, one of the houses in which Whalley and Goffe absconded was Mrs. Eyers's, who seeing them coming, sent the Judges out the back door towards the fields, who returning immediately, she hid them in her chamber. The least that can be made of all this is, that they were actually secreted by Mrs. Eyers.

Upon having recourse to the records, we have seen that in May, 1660, Francis Newman was elected Governor, and William Leet Deputy-Governor: That Governor Newman died November 18, 1660: whereupon the administration devolved on Deputy-Governor Leet till May 29, 1661, when he was chosen Governor, and Mathew Gilbert Deputy-Governor; and Fenn, Treat and Crane, Magistrates. But a fortnight before, when the pursuivants were here, those in office were, Leet, Deputy-Governor,—Gilbert, Treat and Crane, assistants. The town government of New-Haven was in the hands of six townsmen, or select men, for the ordinary secular affairs, and four Depu-

ties or Judges for New-Haven Court, all annually elective in the spring by the town, and the four Judges confirmed and authorized by the Assembly. The six select men then in office were, Roger Alling, John Harriman, John Cooper, — Andrews, Henry Glover, Nicholas Elsey, and William Gibbard. Thomas Kimberly was Marshal, who attempted with a warrant to take the Judges, towards the Neck Bridge, the morning of the arrival of the pursuivants. The matter however did not lie with these town officers, but with the officers of the general jurisdiction: These were, as I said, the Deputy-Governor and three Assistants. Governor Leet, who followed the pursuivants, brought along with him Mr. Crane, from Branford, and then sent for and convened the Magistrates of Milford and New-Haven, and the four Judges of New-Haven Court, who at this time were John Wakeman, John Nash, William Gibbard, secretary, and John Davenport, jun. of whom Wakeman and Nash were also Deputies to the Jurisdiction Court, or Members of the Legislature. These eight persons were all that were in the authoritative consultation, and that afternoon in great distress, were for a few hours on the point of issuing the warrant, which was actually begun to be written; and which was stayed upon their conceiving the expedient of referring it to the Assembly, which they instantly called, and actually convened within four days, or the 17th of May. In this deliberation on the trying 13th, besides these eight persons, the Governor, Assistants, and four Judges, who sat ostensibly in Council, it is not to be doubted, but that they advised with the select men, and particularly with the reverend Mr. Davenport, Mr. Bishop, Mr. Jones, and others; and that their opinions had full weight, especially Mr. Davenport's and Mr. Jones's, who were most exposed, and most deeply concerned. My idea of them is this, that the Governor, though naturally firm, was in this pressure timid; Gilbert was bold and courageous, and

resolute for saving the Judges at all hazards, though a month after, upon the letters from Boston, he rather gave up. He and Treat coming in at the time of drawing the warrant, stopt it, Jones was enterprizing, and had it been known, had really and knowingly done what would have been assuredly adjudged treason, which the others had not : Bishop was firm ; he with Jones stood their ground : none were disposed to give up the Judges at this time, if possible to save them ; all saw and felt the danger, but that it would come upon Leet, Gilbert and Davenport, whom they were equally engaged to save. Jones's activity was unknown to the pursuivants. The pressure was so great the afternoon of the consultation on 13th May, as that then, I believe, they would all have unanimously concurred in surrendering Goffe and Whalley, as Boston had done, had it not been for the wisdom, discernment, and firmness of Davenport. If he had shaken and failed, all would have been over and lost. It was Davenport's intrepidity that saved the Judges.

Mr. Jones was a new comer, having married Governor Eaton's daughter, an heiress, in London, 1659, he came over with his wife in the fall of 1660 to take possession of Governor Eaton's estate, and lived in his house opposite Mr. Davenport's. I presume it was his and Mr. Bishop's distinguishing themselves with firmness upon this occasion, that brought them immediately forward to civil improvement, and into the Magistracy. Timidity seized the people of New-Haven on this occasion of the Judges, and made them cool to office. In less than ten days after the departure of the pursuivants, on May 23, 1661, John Nash and John Cooper, being chosen Deputies to the General Court, declined : and the same day, at a second choice, John Davenport, jun. and John Nash, being elected, declined serving. They made no choice, such was the reluctance in all to serve at this critical conjuncture. At length, August 1, 1661, John Cooper and James Bish-

op were elected, and they dared to accept. Mr. Jones had not been an inhabitant a year. However, the year following, May 23, 1662, William Jones was admitted a freeman, and nominated for Magistrate; he soon came into the Magistracy; and both he and Mr. Bishop became Governors of Connecticut. They were well informed, firm and decided characters.

Further consideration brought New-Haven almost to a conclusion of the necessity of surrendering the Judges. Even the courageous Mr. Gilbert seemed to judge this expedient. It was undoubtedly the perseverance of Davenport, and his fidelity and heroism, that decided at this crisis also. And the Judges retired to their cave. This was the last public appearance they ever made. From this time to their death they were buried in obscurity, neither was it safe for their numerous friends to know the places of their concealment and shifting residences. None wished to betray them; none wished to know where they were; all wished to be totally ignorant. A few however ventured to secure their retreat, and as guardians of a holy deposit to watch secure and protect them, although at the known risque of their lives, as protectors of traitors. Among these we may enumerate Mr. Jones, Mr. Burril, and Mr. Sperry, at New-Haven; Mr. Tomkins, and others, at Milford; and Mr. Ruffel and Mr. Tilton, at Hadley.—These perhaps were almost the only, at least the principal persons, with whom they had immediate communication, and through whose hands they received all their supplies. A few other persons might be knowing of their places of concealment, and might secretly and occasionally visit them, as Mr. Davenport and Mr. Bishop, at New-Haven; Mr. Treat, at Milford; and Mr. Richard Saltonstall and Governor Leverett, at Hadley. The rest of the country, it is probable, not only wished not to know any thing of them, but were ever in actual ignorance. Thus they were shut out and secluded from the world to their deaths.

SECTION II.

Their secreted pilgrimages after their final abdication and evanescence from the world, June 24, 1661, to the last notice of them, in 1679.

This section will necessarily involve some repetitions, which may however be an illustration of the preceding period. It may be best to deliver the traditionary information collectively and promiscuously, just as it is received, respecting either the whole or part of their residence in New-England. Every one will be able to select what falls within one period or another.—When we shall have selected what applies to one, there will be much left to illustrate the other. It is difficult to separate from the promiscuous mass of information, what belongs only to one, without losing some of the force of probability as to each. We must take narratives as they come to us, with all their attendant circumstances, and make the proper use, selection and appropriation ourselves. Some relate one thing, some another; some more, some less; some of one period, some of another; most deliver scattered notices of both collectively. We can select and apply illucidations at our own discretion. In examining evidences or witnesses in a court of law, it is best to suffer them freely to narrate their testimony and knowledge, each in his own way, with the attendant circumstances, as they lie or arise in their own minds, though much may be repetitions and superfluous, that we may more accurately discern and select that which is in point or to purpose. Often the same thing narrated simply and without circumstances, will yield a different aspect and force or weight, with from what it would without the circumstances and superfluous matter. And we easily select that which we need, and find different matter applicable to different subjects, even unthought of in the course of enquiry, and which the narrators would not discern themselves, and if they did, would not dis-

close, or would be diffident and uncertain. And this may excuse and justify me, in bringing the same things repeatedly up to view in the course of this history, under different references, and for different purposes, as it may be with profitable retrospective application in variation of subjects already considered. Nor is it in the power of an historian always to lig together in one view the whole illustration of a subject, especially when such illustration may arise from subsequent events; which is peculiarly the case in developing secret history, which often requires a generation, or the period of many years, for a full, intelligible, and satisfactory investigation; and wherein, after the most diligent and assiduous search and enquiry, many things will remain obscure and dubious, and many things remain to be lost in irrecoverable oblivion.

Let us now trace out these exiled pilgrims in their several retreats, migrations, and secret residences.— To begin at New-Haven where they first evanished into obscurity and oblivion. They retired from town to the west side of a rock or mountain, about 300 feet perpendicular, commonly called the West-Rock, to distinguish it from the Neck-Rock, to the N. E. of the town. The southern extremity of West-Rock lies about two and a half miles N. W. from the town. Between this, westward, and a ridge of mountaineous or rocky elevation, ranging N. and S. parrallel with the West-Rock, lies an interjacent bottom, or plain, three miles long, containing a thousand or twelve hundred acres of excellent land, which Mr. Goodyear, a rich settler, had bought of the town, and on which he had planted his farmer, Richard Sperry, which farm Richard Sperry afterwards became possessed of, and now for above a century it has gone by the name of Sperry's Farm. In the records I find, April 23, 1660, "Mrs. Goodyear and her farmer Sperry." Mr. Goodyear brought farmers with him out of England, being himself an oppulent Merchant, and always followed com-

merce. On this tract Mr. Goodyear had built Sperry an house ; and in the woods about one mile S. W. from Sperry's, stood the house of Ralph Lines. These were the only two houses in 1661 westward from New-Haven, between this West Rock and Hudsons River, unless we except a few houses at Derby or Paugasset. All was an immense wilderness. Indeed all the environs of New-Haven was wilderness, except the cleared tract about half a mile or a mile around the town, which was laid out and built with 100 or 120 houses on a square half mile, divided into nine squares. Behind the West Rock therefore was, in 1661, a very secure retreat and concealment. This Mr. Jones provided for these exiles. At and about this mountain they secreted themselves between three and four months. Three harbors, lodgments, or places, of their residence there, at different times, are known and shewn to this day. I have visited all three of them, being carried to and shewn them by the family of the Sperrys still dwelling on that tract. The description of them is as follows :

Let it be observed that at this time, about 3 or 400 acres westward of the town was cleared in a common field, called the ox pasture: This might extend near half a mile westward from the central square of the town. All beyond was woods and wilderness. At two miles N. W. from the town was a mill.* To this mill the Judges repaired 11th of May, 1661, and here they lodged two nights. On the 13th, Jones, Burril and Sperry, came to them in the woods near the south end of the mountain, and conducted them to Sperrys, about three miles from town. They provided for them " a place called Hatchet Harbour, where they lay two nights ; until a cave or hole in the side of a hill was prepared to conceal them. The hill they called Providence Hill : and there they continued from the 15th of May to the 11th of June ; sometimes in the cave, and in very tempestuous weather in a house near it."—Hutch. from Goffe's Journal. It is somewhat difficult

to ascertain where Hatchet Harbour was. I have taken much pains to inquire out this place from the Sperrys, and other inhabitants ; and for a long time without satisfaction. Upon Gov. Hutchinson's History coming out in 1764, the Rev. Mr. Woodbridge, the Minister of that parish, made diligent inquiry for Hatchet Harbour : but he told me he could not satisfy himself. Not but that upon enquiry he readily found that the people knew the story, and uniformly pointed out the place to be that, which was also called the Lodge at the Spring, back in the wilderness, and three miles N. W. from Sperrys. On this tract west of the mountain, there is now the large and well settled parish of Woodbridge, of 150 or 200 families, chiefly peopled from New-Haven and Milford, thoroughly transfused and impregnated with the stories of the Sperrys and Lines, concerning the Judges and the places of their concealments : So that any and all of them point out the places with as much facility and precision as a New-Haven man will point out Dixwell's grave, or a Saybrook man point out Lady Butler's tomb now standing. Until Mr. W. expressed his doubts, they never were more at a loss to point out Hatchet Harbour, than the cave or clump of rocks called the cow and calves ; and as uniformly made that and the lodge the same. And now ask a Sperry or any Woodbridge man, where was Hatchet Harbour ? and they constantly say, at the Spring or Lodge, to this day : and never heard of any other place. Mr. Woodbridge's difficulty lay here : Governor Hutchinson places it in the side of a hill, called Providence hill, which was doubtless the West Rock ; and says that their concealment here was only two nights, and this at the beginning of their exile from New-Haven. Now tradition here makes it a place three miles off, of a longer, and for a time a settled residence, and their last abode before they went and settled at Milford. Though during their more ordinary and settled residences at three different places for three

months, they at times wandered about in the wilderness, and made transient extemporaneous lodgments in the woods, at Mr. Riggs's and at George's cave. I have often observed this to the inhabitants, and though they are not able to reconcile or account for it, yet they uniformly and unalterably persist in their feeling and ancestral tradition, that Hatchet Harbour is three or four miles off of the West Rock, on Mr. Newton's farm, and at a place called indifferently by them all, sometimes Hatchet Harbour, sometimes the Harbour only, sometimes the Lodge near a spring. Within a few rods adjacent to which is an eminence, called by the Judges, the Fort or Lookout: as from thence they commanded the view of New-Haven, seven miles off. Forty years ago, and many years before the publishing of Hutchinson's History, the very boys of a certain family and neighborhood three miles off, which cultivated a farm there, when asked where they were going to work that day, would answer, to the Harbour, or to the Lodge indifferently, but rather more commonly, to the Harbour, meaning this very place. This I have from some of the persons themselves now living.

This having been so constantly the understanding and language of the inhabitants, of the Sperrys, and all the people to this day; and their never having heard of any other place for Hatchet Harbour, has led me to conceive—that the first night Sperry led the exiles into the woods, determining to place them in absolute security and safety for a few days, till the cave could be prepared, he carried them out into the wilderness to this recess; and carrying a hatchet with them, or as constant tradition says, finding one there at the spring, lost there perhaps by some hunters, they cut down boughs of trees, and made a temporary coverture, where they lodged a few nights only, and then went to the Cave on the summit of the West Rock. And after perhaps a months residence, being affrighted from the Cave by wild and ferocious animals, they sought another place

a mile or two northward, on the Rivulet at the foot of the same Mountain : but being discovered by the Indian's dogs in hunting, they removed three miles further westward into the wilderness, to Hatchet Harbour, their first transient place ; which from becoming thenceforth their more settled residence, was called the Lodge. So that the same place goes by the name of the Lodge or Harbour, to this day.

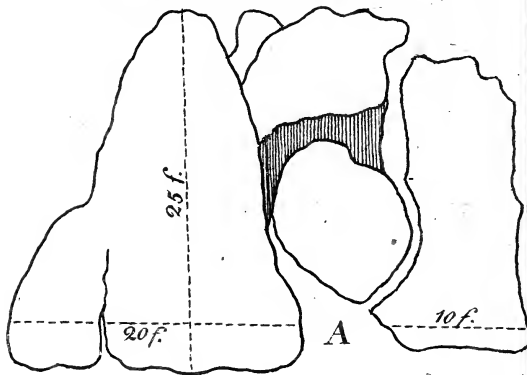
To return : after lodging two nights at Hatchet Harbour, they went to the Cave. From Sperrys they ascended the west side of Providence Hill to this Cave. But why this Cave should be spoken of as being in "the side of the Hill," I cannot conceive, unless it might so appear to the Judges, for the Cave is high up the hill, even on the very summit ; although being enveloped in woods, they might not especially at first consider it as on the summit : it is however on the very top of the West Rock, and about half or three quarters of a mile from the southern extremity. This Cave then I shall consider as their first station or harbor, as they called all their residences Lodges, Harbors, or Ebenezers, without accounting their short lodgments of two nights each at the Mill and at Hatchet Harbor.

In 1785 I visited aged Mr. Joseph Sperry, then living, aged 76, a grandson of the first Richard, a son of Daniel Sperry, who died 1751, aged 86, from whom Joseph received the whole family tradition. Daniel was the sixth son of Richard, and built a house at the south end of Sperry's farm, in which Joseph now lives, not half a mile west from the Cave, which Joseph shewed me. There is a notch in the mountain against Joseph's house, through which I ascended along a very steep acclivity up to the Cave. From the south end of the mountain for three or four miles northward, there is no possible ascent or descent on the west side, but at this notch, so steep is the precipice of the rock. I found the Cave to be formed, on a base of perhaps forty feet

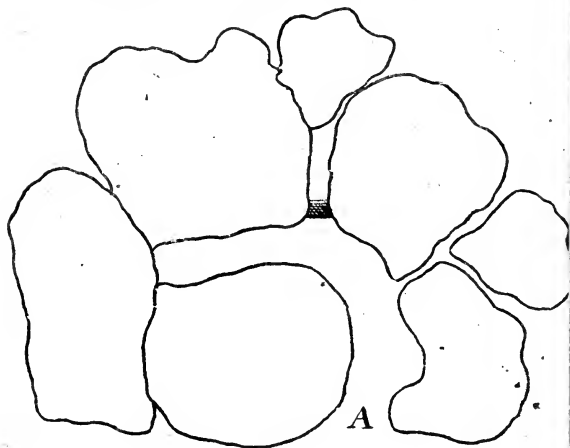


Judges Cave on top of W. Rock, being a clump of 7 irregular Rocks, 25 feet high & 150 f. round, 50 f. c.

Elevation or erect View on S.E. front,



Horizontal Section or Base of the 7 Rocks, with the Aperture of residence 2 to 3 feet wide & 4 to 6 f. high
A. the aperture or mouth of the Cave.



square, by an irregular clump or pile of rocks, or huge broad pillars of stone, fifteen and twenty feet high, standing erect and elevated above the surrounding superficies of the mountain, and enveloped with trees and forest. These rocks coalescing or contiguous at top, furnished hollows or vacuities below, big enough to contain bedding and two or three persons. The apertures being closed with boughs of trees or otherwise, there might be found a well covered and convenient lodgment. Here, Mr. Sperry told me, was the first lodgment of the Judges, and it has ever since gone and been known by the name of the Judges' Cave to this day. Goffe's Journal says, they entered this Cave the 15th of May, and continued in it till the 11th of June following.—Richard Sperry daily supplied them with victuals from his house, about a mile off; sometimes carrying it himself, at other times sending it by one of his boys, tied up in a cloth, ordering him to lay it on a certain stump and leave it: and when the boy went for it at night he always found the basons emptied of the provisions, and brought them home. The boy wondered at it, and used to ask his father the design of it, and he saw no body. His father only told him there was some body at work in the woods that wanted it. The sons always remembered it, and often told it to persons now living, and to Mr. Joseph Sperry particularly.

They continued here till 11th of June. Mr. Joseph Sperry told me that the incident which broke them up from this Cave was this, that this mountain being a haunt for wild animals, one night as the Judges lay in bed, a panther, or catamount, putting his head into the door or aperture of the Cave, blazed his eye-balls in such a hideous manner upon them, as greatly affrighted them. One of them was so terrified by this grim and ferocious monster, her eyes and her squawling, that he took to his heels, and fled down the mountain to Sperry's house for safety. They thereupon considered

this situation too dangerous, and quitted it. All the Sperry families have this tradition.

Mr. Joseph Sperry also told me another anecdote.—That one day the Judges being at Mr. Richard Sperry's house, some persons appeared riding up towards the house through a causey over the meadows, so that they could be seen fifty or sixty rods off; who by their apparel, and particularly their red coats, were by the family immediately taken to be, not our own people, but enemies. They were the English pursuivants unexpectedly returned from New-York, or Manhados.—Upon which the guests absconded into the woods of the adjoining hill, and concealed themselves behind Savin Rock, twenty rods west of Sperry's house. When the pursuivants came to the house, and enquired of the family for the two regicides, they said they knew not where they were, they had transiently been there, but had gone into the woods. I have long ago often heard this story of the pursuivants' actually surprizing the Judges at Sperry's house, and that it was unexpectedly and when they were off their guard, and upon their unexpected return from New-York. Yet by Hutchinson they returned to Boston by water. But it has always been the tradition at New-Haven that they returned here, and by corruption of servants learned this retreat at Sperry's, and made this sudden irruption to surprize and take them. That they came there, and came unexpectedly, whether on 14th May, before they went out of town, or afterwards upon a return, I think there can be no doubt.

I have described their first residence in the Cave on the Rock. Mr. Sperry told me of two others, one about two miles north, and the third at the Lodge and Fort, so called, about four miles north-west in the wilderness. These I afterwards visited.

The second residence is a little more dubious than the first and last, which are unquestionably certain. It

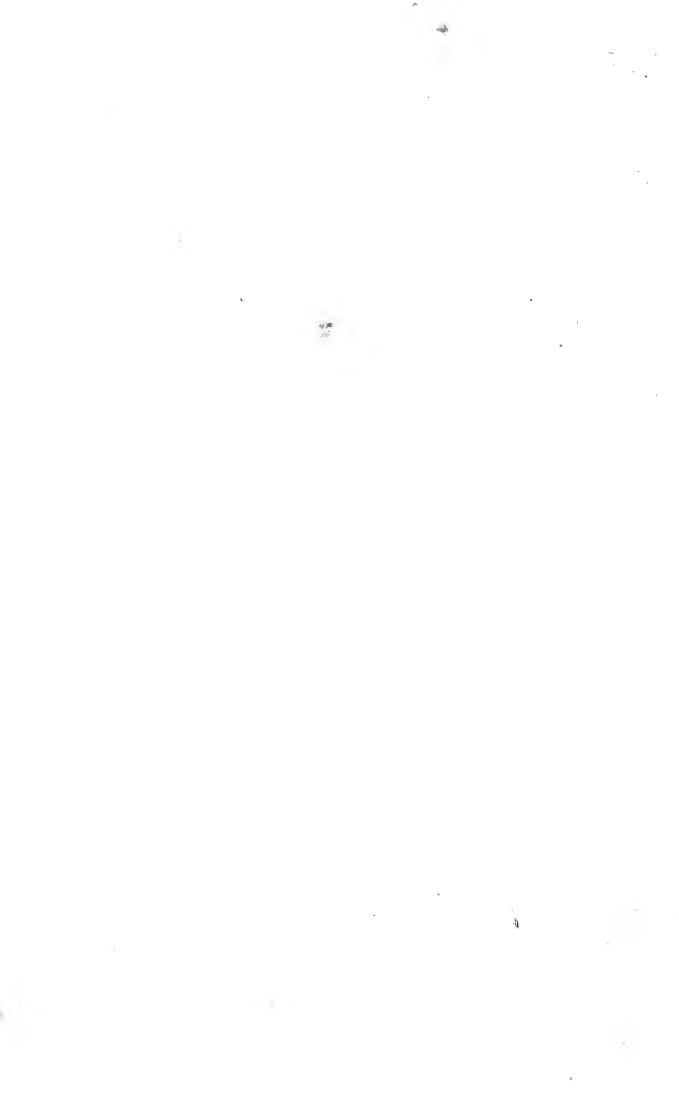
was about two miles and a half north of the first, on the west bank of a rivulet running along at the foot of the west side of the West Rock, and about half a mile north of the house of Thomas Darling, Esq. This gentleman was a man of literature and solid judgment, and the most inapt to credulity, especially of fables, of any man. Retiring from town many years ago, he settled on a paternal estate at the upper end of Sperry's house. He had been conversant with the Sperrys and their traditions for many years, and was fully convinced that this place was one of the residences of the Judges. In August 1785, he went with me and shewed me the spot of their little domicile, when some of the wall or stone ruins were then remaining. I examined it with close attention, and made a drawing of it on the spot, one of the Sperrys being with us; and affirming the immemorial tradition, and herein concurring with Mr. Joseph Sperry, who referred me to the same spot.

It was, as has been said, at the foot of the mountain on the western bank of a small rivulet, which runs along the west side of the West Rock; the spot just five miles and a half from Yale College. Descending a steep bank, or brow of the hill of upland, sixteen feet, we came to a bottom, or level, forty feet wide, four or five feet above the water of the rivulet or brook, which I measured thirty-four feet wide at that place. This bottom, or level, extended along the bank, on the edge of the river, fifty-four rods, under the brow of the hill, being two to three rods wide. It was a beautiful, shady and pleasant ambulatory, or walk. The upland on the west side is a level of twenty feet above the river. From under the western brow issues a perpetual spring about the middle of the ambulatory, running in a perpetual pleasant brook or stream along under the western brow, and discharging into the rivulet. The rest of the bottom is not wet and marshy, but dry and salubrious. The whole on both sides of the river

was, in 1785, enveloped in trees and forest, and yet the bottom was not so charged with trees as to be impassable, being only a pleasant shady retreat, in which a philosopher might walk with delight. Near the upper end of this walk, closed in at each end by the curve brow of the hill coming down to the very brink of the rivulet, was situate the hut of the Judges under the side or brow of the hill. Evident traces of it remained in 1785. It was partly dug out of the side of the hill, and built with stone wall, about eight feet one way and seven the other. The western wall was yet standing perhaps three feet high, and a remnant of the north wall. The scite, when I saw it, was filled with weeds and vegetables, and bushes, in the manner of old cellars, for it seemed to have been dug out a little lower than the surrounding surface of the bottom. The remainder of the stone work evidently shewed that it had been built with design: and unvaried tradition say it was one of the abodes of the Judges. They could not have chosen a more secret, hidden, and pleasant concealment. † They probably came to it next after they fled from the first Cave, which they left 11th of June. In the twelve days succeeding they were in great uncertainty whether to surrender or not. It is not improbable that in this space of time they resided in Sperry's house, or perhaps in the adjacent woods part of the time, and part of it shewing themselves at New-Haven, as well as at Governor Leet's in Guilford. But concluding not to surrender as yet, they, on 24th of June, went into their wilderness retirement. Let us suppose they now went into this second Cave lodgment, or residence by the rivulet. For some reason however they do not seem to have sojourned here long: The Sperry's farm tradition says, because the Indian dogs in hunting discovered them. They therefore sought another lodgment. If Governor Hutchinson had made more copious extracts from Goffe's Journal, we doubtless should have had more particular descriptions. He speaks of

† See Plate III.





The Cave, whereas there were undoubtedly three residences in three different places, although all three at and behind the West Rock.

The third place of their abode in the vicinity of New-Haven, was at a place called to this day, *The Lodge*. It was situated at a spring in a valley, or excavation in a declivity, about three miles west, or a little northwest, from the last mentioned residence. A little northward of it was an eminence called the *Fort* to this day, from whence there was an extensive and commanding prospect, and a full view of New-Haven harbor to the s. e. seven miles off. From this they could see the vessels passing in and out of the harbor. When they came to this abode is uncertain; it was in the summer. And they left it and removed to Milford August 1661; after having resided in and about New-Haven for near half a year, from 7th of March to 19th of Aug. 1661. During this time they had two other occasional lodgments in the woods; one at the house of Mr. Riggs, newly set up in the wilderness, at Paugasset or Derby; another between that and Milford. They were some times also at Totoket or Branford. Thus they shifted about, secretly changing their recluses.

I have never been able to determine with precision the true place of Hatchet-Harbor, whither Sperry carried the two Judges and lodged them for the first two or three nights after the 13th of May, until he had prepared another lodge for them on the top of West Rock. I had thought it was near his house, at a hole on the side or precipice of that rock. Afterwards I became satisfied it was not there, but some miles n. w. from his house. The territory from this mountain westward, as indeed that of all New-England, is like the hill country of Judea, a land of hills and vallies.— On a tract about a mile square, and lying four miles n. w. from Sperry's, there are four hills, or eminences, between which there are vallies and intercurrent brooks.

The boundary line between Milford and New-Haven passing here, its frequent perambulation has given notoriety and continued memorial of the names of several places on this territory ; names taken from the residence of the Judges there. And these are entered in the public records both of those towns and of the colony.

On the northern declivity of one of these hills issues a small perennial spring, between two trees, a walnut and chesnut, now three and four feet diameter, and judged to be two hundred years old, standing twenty-two feet apart. This fountain is stoned as if with design, and probably remaining as the Judges left it.— Tradition says that when they came to this spring, one of them said, “ Would to God we had a hatchet ”— and immediately finding a hatchet, left there probably by the Indian hunters, they cut down boughs and built a temporary harbor, from this circumstance called Hatchet-Harbor to this day. Not indeed that all agree in indigitating this particular spring, though most do ; while all agree in placing Hatchet-Harbor some where on this mile square territory, to which they also universally give the name of “ the Lodge,” and “ the Harbor,” “ the Spring,” “ Hatchet-Harbor,” “ the Fort,” “ the Look Out,” “ Homes’s Fort,” and “ Providence Hill.” For different parts of this little territory go by these names, which are frequently used promiscuously and indifferently for any and all parts of it. But I believe that this spring was Hatchet-Harbor. On an eminence west of this, by the side of a ledge of rocks twenty feet high, was built a Cave, or convenient lodgment, ten feet long and seven feet wide, regularly stoned, I find the walls now remaining, though somewhat broken down. It was covered with trunks of trees, which remained, though much rotten and decayed, till within forty years ago : indeed I saw some of the rudera, rafters, or broken relics, limbs and trunks of trees, still lying in the cavity. This was undoubtedly

their great and principal lodge, and in a very reclusive and secreted place. There is a beautiful spring six rods from it. A most convenient and secure situation for exile and oblivion. This lodgment is fifty rods east of deacon Peck's, on whose farm it is situated, and about one hundred rods west from Milford line : as Hatchet-Harbor, or spring (at which I found an Indian stone god) is situate about as far east of that line, on Mr. Newton's farm. Between these two hills, and directly in this line, is a valley immemorially and to this day called "Hatchet-Valley," lying nearly in equal proximity to both springs. The true spot of Hatchet-Harbor is lost, while all agree in referring it to this small territory, and most speak of Mr. Newton's spring as the place.

Across a valley, and fifty or sixty rods north of this spring, lies a very rocky hill, called to this day "the Fort," and in the town patents 1675, "Homes's Fort"—perhaps a name acquired before the Judges' coming there. It was however a place they frequented, not for residence, but for a look out and prospect into New-Haven town and harbor, seven miles off. From hence it was called indifferently "the Fort Rocks," "the Fort," "the Look Out," "Homes's Fort."

West of this, and about one hundred rods north of the great or convenient lodgment, on deacon Peck's farm, lies another hillock or eminence, called to this day, and in the records so early as 1675, "Providence Hill:" between which and Fort Rocks hill is a valley and brook. Between these two hills runs the dividend line of the towns of Milford and New-Haven. Milford tradition is that it acquired that name thus : While the Judges resided at the lodge on the southern hill, they apprehended themselves discovered and pursued, while walking upon the tops of hills, and the Indians always burned rings or tracts on those summits, to give a clear view for hunting deer : supposing themselves discover-

ed they took to the bush, and to deceive their pursuers ranged a north course between the hills, and giving them a false scent, turned off to the westward, and came round the hill to their old place in security. On account of this deliverance they called this northwestern hill Providence Hill. It is said there are still the remains of another Cave at the south-east declivity of Fort Rocks, supposed and traditioned to have also been one of the Judges' burrows. However, all these several lodgments hereabouts, may be properly comprehended under the general name, "the Lodge."

These, with one at Paugasset or Derby, and another in the woods half way between Derby and Milford, give, I believe, all their lodgments at and about New-Haven: and these inclusive of one at Totoket and Guilford, give all their lodgments in Connecticut, for three years and an half, and until their final removal and absorption in Hadley, where they ended their days.

Letter from Dr. Carrington.

"Milford, September 1st, 1794.

"Reverend and dear Sir,

"I find by examining the town records of Milford, that the place called the Lodge is the high lands a little to the westward of Captain Enoch Newton's house, the now farm of deacon Peck. near an hundred years ago this land is described to be at a place called the Lodge, above the head of Mill River, and is so described ever since in the deeds of transfer. To the northward of this about a mile, and on the north side of the road to Oxford, is an hill at this day called Providence Hill. Squire Strong, who is now above eighty years old, tells me that full sixty years ago he was on this hill in company with a Mr. George Clarke, then an old man, and who then lived a little east of the hill; he told them that was Providence Hill, and that it had its name from the Judges residing there. He adds, this Mr. Clarke

was an intelligent man.—And in a deed executed by this Mr. Clarke in 1716, of land on the hill below, to his son, he describes it as being at a place called the Lodge, or Morocco. Betwixt these two hills there is a brook of water running westward, called now Bladen's Brook, and was so by the records, as early as 1700, but from what it had its name I cannot learn. A little east of Providence Hill, on the New-Haven side, is an hill which is commonly called the Fort, and I think used to be called the Lodge too, when I was a lad.—There is a tract of land lying on Milford side, beginning as far north as Amity meeting-house, and running south three or four miles, which has always been called the Race. I find in the records, that in perambulating the lines betwixt New-Haven and Milford, early in Governor Law's day, they say they fixed bounds on Homes's race: that they went northward and set up another on the Lodge; and further on, and fixed another at Bladen's Brook, at the mouth of Station Brook, a small run of water coming out from Homes's Fort. Why these are called Homes's Race and Fort, cannot learn. Squire Strong says he always supposed it was from the Judges assuming that name; but does not recollect he ever heard so. There never was any person in this town of that name as I can find. I have enclosed you a plan representing those places, which may make them more intelligible to you. The Lodge is just twelve miles from Milford, and I judge about seven from New-Haven. Deacon Peck, who has lived on the Lodge about fifty years, and has heard many things from his ancestors on this subject, particularly from the aforesaid Mr. Clarke, his father in law; but does not seem now to recollect much about them; but this he seems to fully recollect, that while the Judges lived here they had their provisions from one Sperry's house, in Sperry's farm, last Richard Sperry's house, now Mr. Darling's land. Hutchinson says they left New-Haven, and lodged in a mill; this mill was pro-

bably at the Beaver Ponds ; thence they went into the woods, met Sperry, &c. who conducted them to Hatched-Harbor. This Hatched-Harbor was, I believe, the same with the Lodge. I hear a Mr. Clarke, now 80 years old, son to George, and lives near the Lodge, says it was so called from the circumstance of their finding a hatchet there the first night they came there ; but I have not seen him to make the enquiry myself.—

'Squire Strong tells me he has heard his mother tell of their living in Tomkins's stone cellar ; that a number of girls a spinning above, sung a royal song, counting on the regicides, not knowing they were below and heard them—the place called George's cellar. 'Squire Strong tells me the tradition is, that a person by the name of George Alsop once lived there, but who he was, or from whence he came, there is none can give any account. The old people in this town have heard their ancestors tell about the Judges, but seem not to recollect any thing particular about them, except they all agree of their living at Tomkins's house. The first law book of New-Haven colony, you enquired of me about, published in Governor Eaton's day, 'Squire Strong tells me he has seen in Mr. Edward's library at Hartford. The Judges were probably known to Governor Treat, for he was at that time a man of great note in this town. He was born in 1622, came here from Hartford with the planters in 1639, was then seventeen years old. He married the only daughter and child of Mr. Edmund Tapp, one of the first and principal planters. He intended to have returned to Hartford, but his wife's parents, and the planters, persuaded him to tarry in the plantation, and they made him grants of lands to induce him to tarry with them ; he lived with Mr. Tapp, at least his house was on Mr. Tapp's lot. Mr. Tapp's great grand-son, and Governor Treat's grand-son, Mr. Edmund Treat, now eighty years old, lives on and owns the farm lot, together with many other pieces of land, that was Mr.

Tapp's and Governor Treat's. The first lands taken up by the first planters, are in many instances yet in the same families, as the Pruddens, Clarkes, Fenns, Fowlers, &c. Governor Treat appears by the records to have had the principal direction of the plantation very early, as in building of the meeting-house, which was 30 feet square, and stood where the steeple of the present stands. He is often mentioned in the records, and appears as Deputy-Governor first in 1678—as Governor in 1682, and until 1699—from that time until 1708 he again appears as Deputy-Governor. 'Squire Strong tells me that on the return of General Winthrop from England, as agent, in 1698, Governor Treat requested Mr. Winthrop might have the chair, and he was accordingly chosen Governor, and Colonel Treat Deputy-Governor. Mr. Winthrop died, it appears by our records, in 1707, and upon the 17th of December, 1707, Deputy-Governor Treat convened the Assembly at New-Haven, informed them of the death of the Governor, that he had convened them that they might make choice of one, agreeable to charter. Governor Treat was at this time 86 years old, and probably declined public business any more, for I do not find any further mention of him after this in the records. He died July 12th, 1710. It is recorded also on his tomb-stone, that he served in the post of Governor and Deputy-Governor nigh thirty years. The Assembly, in 1707, made choice of Governor Saltonstall, but as he was not in the nomination, and by law they could not chuse any one out of the nomination, before they gave him the qualifying oaths, which was on the first of January, 1708, they repealed the law so far as respects the choice of Governor and Deputy-Governor, and left them to the choice out of the freemen at large, which has continued ever since. This transaction is on our town records.

“I am inclined to believe that Bladens Brook, Homes's Fort and Race, the Lodge, or Morocco, all

had their names from the Judges, as well as Providence Hill ; but at this day there is none can inform, Goffe's Diary, which Hutchinson mentions he had, might refer to these places, and point them out as it did Providence Hill, where they lodged. Hutchinson says their letters are dated at places not known, to prevent their discovery. Morocco I should suppose it likely for them to write from, as Ebenezer. When I found these places in the records I expected to have got further information from the aged people ; but they in general do not recollect with sufficient certainty to establish facts.—Your information may explain these records, or they may possibly help to explain some matters you have doubted of. There is a Mr. Valentine Wilnot now living in Bethany, an old man, whom I have not seen many years ; he knew all the ancient people at Sperry's farm, was a great Hunter, and I believe from what I can recollect of the man, is likely to have heard and retained some anecdotes about the Judges.

I am, Sir,

With respect,

Your most humble servant,

EDWARD CARRINGTON.

Reverend Doctor Stiles.

“ P. S. There is a tradition of a very curious sepulchre found many years ago, about two miles north-west of the Lodge ; that it was in the side of some rocks, that it was made of stones laid by hands in a very regular manner ; and when opened a corpse was found in it, at least the bones of a man supposed to be six feet and a half high. It was accidentally found by removing the stones for a building.”

From their lodgments in the woods the Judges removed and took up an asylum in the house of Mr. Tomkins, in the centre of Milford, thirty or forty rods from the meeting-house. Governor Law afterwards

bought this house and lot, and built his seat within a rod or two of it. I have frequently been in this house of Tomkins's in the Governor's life time, who died 1750, aged 73: it was standing since 1750, and perhaps to 1770. In this house the two Judges resided in the most absolute concealment, not so much as walking out into the orchard for two years. I have not learned who were privy to the concealment here. The minister at this time was the reverend Roger Newton. He with Mr. Treat and Mr. Fenn, and a few others here were in the secret, and held interviews with them in this secret retirement. But it is strange that the very memory of their residence there is almost totally obliterated from Milford. I do not find a single person of Milford, or of Milford extract, except Judge Law, now of New-London, born at Milford, the Governor's son, and Gideon Buckingham, Esq. of Milford, now living, who is possessed of any idea or tradition of the Judges having ever lived there at all. Judge Law is fully possessed of the matter, and corrects Governor Hutchinson's account, who places Tomkins's house between New-Haven and Milford, whereas he informs me it stood in the very center of the town of Milford, and on his father's home lot. This house, it is said, was built for the Judges on Tomkins's lot, a few rods from his house. It was a building, say twenty feet square, and two stories. The lower room built with stone wall, and considered as a store. The room over it with timber and wood, and used by Tomkins's family as a work or spinning room. The family used to spin in the room above, ignorant of the Judges being below, where they resided two years, without going abroad so much as into the orchard. Judge Buckingham tells me this story, the only anecdote or notice I could ever learn from a Milford man now living. While they sojourned at Milford, there came over from England a ludicrous cavalier ballad, satirizing Charles's Judges, and Goffe and Whalley among the rest. A spinstress

at Milford had learned to sing it, and used sometimes to sing it in the chamber over the Judges; and the Judges used to get Tomkins to set the girls to singing that song for their diversion, being humoured and pleased with it, though at their own expence, as they were the subjects of the ridicule. The girls knew nothing of the matter, being ignorant of the innocent device, and little thought that they were serenading angels.

But however the memory of the Judges is obliterated at Milford, not so at Guilford, New-Haven and Hadley. Here I resume their situation before their final abdication. It is in constant tradition at Guilford, not only that they actually were here, but were for some time, at least for several days, secreted at Governor Leet's. They speak of two circumstances: 1st. That the Governor, though a cordial friend to them, was filled with great anxiety and distress lest he should be brought into danger and trouble by their being there, and took the utmost precaution concerning their concealment, that he might be safe and secure from incurring blame. And to this end, 2d. He would not suffer them to be lodged in his house, but made them lodge in his stone cellar.* Now it is difficult to account for this tradition, on the supposition of only their transient visit and calling upon him, and even lodging with him, in their way from Governor Winthrop's in New-London, to New-Haven, which they certainly did on 7th of March: for there really was no danger of impeachment for the harboring and concealing traitors, till after he had, on 10th May, received a copy of the royal mandate. Governor Winthrop felt no danger, nor did Governor Leet, till the 10th of May. He might be tenderly anxious and solicitous for the regicides themselves, and for the manner he must be called to conduct in the affair, but not for his incurring any penalty by this act of hospitality even to travelling traitors, whom he had no orders, nor by office as chief Magistrate was then holden or obliged to apprehend. Nor would he

* See Plate III. No. 3.

at that time have lodged them in his cellar. But the case was much altered after the 10th of May, and every body was put into terror and caution after that. The Judges certainly were not at Guilford after they went to New-Haven, during the space of from 7th of March to 10th of May, when the Governor told Kellond and Kirk that he had not seen them for nine weeks. Although it is probable that he immediately, or in a few days after 7th March, followed the Judges to New-Haven, there to take counsel and concert measures how to act concerning them, of which there is a flying tradition; yet if so, he saw them no more till after the 10th of May. After this, it became really dangerous for the Governor to be concerned in the concealment. From their first coming in March, to 11th June, they certainly were not seen by the Governor. Between this and 20th of June was the only space in which they could be at the Governor's, for they were exposed three days in New-Haven, and retired to their Cave June 24th. These eight or nine days it was in deliberation to deliver them up, and Mr. Gilbert gave out that he expected it. Let us conceive that they had concluded to surrender, and went over with their friends, doubtless Jones, if not Davenport, to the Governor to surrender. Deliberating when they came there, they might consider that the only person in real danger was Mr. Davenport, and if he would risque the matter, the concealment might go on. The formal and actual surrendery they might hold in suspense. But this took up time, and perhaps they must lodge in Guilford a night or two. How should this be ordered so as to save the Governor? Here might be room for the appearance of the Governor's timidity and caution; which might terminate in a conclusion that it was not best nor safe that they should lodge in the Governor's house; and to avoid this they should, during these few days secretion, take up their abode in the stone cellar, and perhaps in Mr. Rossiter's house.

There is, as I have said, reason to think that they went over to Guilford with the bona fide and actual view of surrendering themselves to Governor Leet. The Governor's house was situated on the eastern bank of the rivulet that passes through Guilford.† He had a store on the bank a few rods from his house, and under it a cellar remaining to this day, and which I lately (1793) visited and viewed with attention. It is, as I have said, still in the general and concurrent tradition at Guilford, that the Judges were concealed and lodged in this cellar several nights, most say three days and three nights, when the Governor was afraid to see them. A daughter of Governor Leet afterwards married in New-Haven to Mr. Trowbridge. It is an anecdote still preserved in that family, that she used often to say that, when she was a little girl, these good men lay concealed some time in this cellar of her father's store; but that she did not know it till afterwards: that she well remembered that at the time of it, she and the rest of the children were strictly prohibited from going near that store for some days, and that she and the children wondered at it and could not conceive the reason of it at that time, though they knew it afterwards. Tradition says that they were however constantly supplied with victuals from the Governor's table, sent to them by the maid, who long after was wont to glory in it, that she had fed these heavenly men. Now this caution could not be at their first interview with the Governor, at their passing at Governor Winthrop's from New-London to New-Haven, in March. On the 12th of May Leet told the pursuivants that he had not seen them in nine weeks, nor was it dangerous, as I have said, for any one to see them till that time, when he first received the King's proclamation. He doubtless studiously avoided seeing them ever after this.—This hiding in the cellar must therefore have been after 12th of May, and indeed after the 11th of June; and I conceive it to have been at the time when Mr. Gilbert

† See Plate.

gave out that he looked when they should have come in and surrendered, as he might say with truth, if he knew they were gone to Guilford with the express design of surrendering. And as it would not have been proper for the governor to see them until they actually surrendered, it was natural so to contrive the matter, that they should lie concealed in this cellar, during the two or three days' consultation and deliberation on what was necessary and best to be done. This therefore was a proper time, and here was sufficient reason for all the caution and injunctions upon the family, to avoid and not go near that store, a thing long after remembered by the Governor's daughter, and narrated in her very old age, within the memory of persons now living.—Perhaps Mr. Davenport himself was in this consultation, as being conceived to be the principal person in danger. Upon revolving and discussing the matter, they must have perceived the solidity of Mr. Davenport's reasons, that both he and the Governor were safe if they had never any thing more to do with the Judges after the receipt of the King's proclamation and commands. For these or other reasons, it was concluded not to insist on their surrendery ; and accordingly they were left to retire from this concealment in the Governor's cellar, and returned to New-Haven ; and after shewing themselves openly there from 20th to 24th of June, retired to their Cave at Providence Hill. This was undoubtedly the time, the dangerous time, when they were so cautiously concealed in the cellar.

Connected with this is another anecdote, which I extract from the records :

At a General Court at New-Haven, May 7, 1662.

Considering the case of Mr. Brayton (Bryan) Rossester, of Guilford, and his son, John Rossester : The Marshal of Guilford had waited upon them for colony rates, the father not at home. In conversation with the son, the Marshal "told him, his father should bring in an account of his charges about the COLONELS, &c."

Now at that day, that military office was not in being in New-England: there being only Majors and no Colonels in Massachusetts, Connecticut, New-Haven, Plymouth or Rhode-Island. Were not these Colonels Goffe and Whalley? and dont this concur in evidencing that they resided some time at least in Guilford in 1661? Doubtless they resided in the Governor's cellar, and at Mr. Rossiter's, from the 11th to 20th of June. Mr. Davenport standing firm, and the Governor now having demonstration by the actual surrendery of the Judges, that they would at all times stand ready to surrender, and it being agreed that the places of their retreat should always be known to him, so that they could be given up in case of extremities, he felt himself safe, and could agree to postpone the actual acceptance of their surrendery to a future time, if it should be absolutely necessary.

Madam Dexter, of Dedham, originally of Boston, whom I saw 1793, aged 92, tells me she had formerly been acquainted with a pious woman at Dedham, who used often to glory that she had lived with, served and ministered to these holy men; but when asked, would never say where it was.

An aged woman now living in New-Haven, of good intelligence, tells me, 1793, that her grandmother Collins died about 1744, aged 87, when she was aged 17 or 18. Mrs. Collins (formerly Mrs. Trowbridge) was Governor Leet's daughter. She has often heard her say, that she remembered the children of the family were for a time forbid the stone cellar, but could not then conceive for what reason. But she was afterwards informed, and ever after supposed the two Judges were concealed there. Mrs. Collins might be four or five years old in 1661. This is a distinct branch of traditionary information from the former, although of the same fact, and concurrent with other information.

It is difficult to conceive how any thing less than this should be sufficient for the tradition at Guilford.—

If this scene really took place, what commanded the ultimate determination? Suppose it was this, that they should return to New-Haven, appear openly, and not only clear Mr. Davenport from then still concealing them, but confer with Mr. Davenport, the only man in danger, and if he felt his danger, then to surrender. And this would bring the whole matter upon Mr. Davenport. If he gave out, all was gone. Mr. Davenport was a great man in every respect, a great civilian, a great and deep politician, as well as divine, and of intrepid resolution and firmness; and was a much deeper man, of greater discernment in public affairs, and every way superior in abilities to the Governor and all concerned. He saw they all gave up. He, like Mount Atlas, stood firm, and alone resolutely took the whole upon himself. Better than any of the Counsellors, he knew that the secreting he had done to the 30th of April, and whatever could have been done before the arrival of the royal mandate, could be vindicated by the laws of hospitality to unconvicted criminals, and could not in a court of law be construed into even a misprision of treason. It might subject him to some inconveniences, perhaps prosecutions, but could not be fatal: a thing which perhaps the others doubted. Supported by his good sense and deep discernment, he therefore felt himself secure, and stood firm; not out of obstinacy, which was indeed natural to him, but with an enlightened and judicious stability. What staggered Governor Endicott, a man of heroic fortitude, and other Hearts of Oak at Boston, never staggered Mr. Davenport. He alone was firm, unshaken, unawed. Great minds display themselves on trying and great occasions. He was the man for this trying occasion. Davenport's enlightened greatness, fidelity and intrepidity, saved the Judges.

They having shewn themselves three days at New-Haven, though doubtless cautiously, on the 24th of June, as I have said, retired to their Cave, and closed

their last open intercourse with the world. Here they continued about two months longer, and then, on the 19th of August, 1661, removed to the house of a Mr. Tomkins in Milford.† Here they lived secreted two years without going into the orchard. Afterwards their religious meetings and exercises, as it is said, gave them too much notoriety to continue there any longer; and they were obliged to meditate a removal to a more secreted asylum. This was undoubtedly accelerated by the news of the arrival of the Commissioners at Boston, 1664, one of whose instructions from the King was, to make enquiry for Colonel Whalley and Colonel Goffe. They sought for the most remote frontier settlement; and the friends provided for their reception at the house of the reverend John Ruffel, minister of the new settled town of Hadley, one hundred miles off, upon Connecticut river, in Massachusetts. They removed from Milford to Hadley on the 13th of October, 1664, after a residence and pilgrimage of three years and seven months, at New-Haven and Milford. They travelled only in the night, and lay by in the day time, making little stations or arbors, which they called harbors, when in the woods on their journey. One of the little rests or harbors of these pilgrims, was near the ford of a large brook or rivulet, which we pass in the way to Hartford, just twenty miles from New-Haven, or half way to Hartford, and one mile west of Meriden meeting-house: which circumstance has given the name of Pilgrims Harbor to this place or pass, to this day. From thence they proceeded to Hadley in 1664.

They kept a diary or journal of occurrences for the first seven years of their exile, after they left London, at Boston, New-Haven, and Milford, and then at Hadley. These with their letters, and perhaps other writings, were left in the hands of Mr. Ruffel, of Hadley, till his death, 1692; and passed down to his son, who died 1711, having removed them to Barnstable; and thence to his grand-son, the succeeding minister of

† See all these Lodgings, *Plate I. No. II. and Plate III.*

Barnstable, where they were preserved to his death, 1758. About this time, or perhaps 1759, or 1760, Mrs. Otis, of Barnstable, an aged widow lady, removed from Barnstable, and came to live with her son, Major Jonathan Otis of Newport, and became for many years a communicant in my church there. This brought me into an intimate acquaintance with her. She was a Ruffel, a grand-daughter of the reverend John Ruffel, of Hadley, daughter of the reverend Jonathan Ruffel, of Barnstable, and sister of the reverend Jonathan Ruffel, successor of his father in the pastoral charge of the church at Barnstable, who died 1758. She was every way a woman of merit and excellence. Of exceeding good natural abilities, very inquisitive, possessed a natural decency, dignity and respectability, and was a person of considerable reading, and extensive observation. She had all along in life been much conversant among ministers, gentlemen of the Court, and persons of the first respectability. She was ever learning and imbibing something profitable and improving, and took singular delight in the conversation of instructive characters. She was perfectly versed in the Ruffel history of the Judges, for whose memory she had the family veneration. So much I think necessary to observe of her personal character. Among other conversations, she often brought up the story of the Judges. She considered it an honor to have descended from an ancestor who had concealed and protected them. She often told me of a trunk of Whalley's and Goffe's manuscripts which had come down to her brother, the second Mr. Ruffel, of Barnstable, and were preserved there in his library to his death. She said she had spent much time in reading them, and spake much of what she found contained in them. What was given to the Mather library, was but a very small part of the collection of the Judges' manuscripts in this trunk, some of which, though dispersed, may possibly yet be found, and afford light and information.

When I read Governor Hutchinson's history, published in 1764, and particularly his marginal notes about the regicides, I instantly recollected this information of Mrs. Otis respecting this collection of manuscripts, and at first judged that this was the source from whence the Governor derived his documents. Lieutenant-Governor Hutchinson was then Chief Justice of the Supreme Court of Massachusetts. I at once considered, that in riding the circuit, when holding the court in the county of Barnstable, he came across this trunk of the Judges' manuscripts, and selected from thence the accurate and authentic information which he published. But afterwards the Governor told me, that he had never heard of this collection of manuscripts in the hands of Mr. Ruffel, of Barnstable; and that his information was derived from original autographical writings, which he had found among the papers and manuscripts preserved in the Mather library, in Boston, and which the reverend Samuel Mather, of Boston, had obliged him with the perusal of. The reverend Samuel Mather married Governor Hutchinson's sister. He was the only son of the reverend Doctor Cotton Mather, author of the *Magnalia Americana*, who had been long assiduous in collecting original information from all parts of the country for that work. A most valuable collection of Manuscripts from the reverend Richard Mather, of Dorchester, Doctor Increase Mather, and Doctor Cotton Mather, descended and came into the hands of Mr. Samuel Mather, brother-in-law to Governor Hutchinson. This family connexion opened all this treasury of historical information to the Governor. Here he found Goffe's original Diary, or Journal, for seven years, written in several pocket volumes, and also a number of Goffe's letters to his wife. But neither the Governor nor the possessor knew how they came into the Mather library.

That they came from the Ruffel family, and from the Barnstable collection, I do not doubt; as the libra-

ry of the Hadley Ruffel had been removed to his son's at Barnstable, soon after 1692, before Doctor Cotton Mather began to write his history, and ten years before the publication of the *Magnalia*. I do not believe the Hadley Ruffel would have suffered them out of his hands in his life time. If Cotton Mather came across them while writing, he for some reasons never made use of them, as nothing of them appears in his works. Doctor Cotton Mather, as well as his father, Doctor Increase Mather, was intimately acquainted with all the Ruffels, and doubtless from them received the manuscripts. But I am inclined to think that they never disclosed these manuscripts to Mather, till death had put every one out of danger. Probably Mr. Ruffel lent them to one of the Mathers, about 1715 or 1720, for Governor Hutchinson speaks of them as of the collection of Doctor Increase Mather, who died, 1724, as did Doctor Cotton in 1727, when they came into his son Samuel's hands, and lay unnoticed till Hutchinson delivered an extract from them to the public, 1764. But it seems they were but few, and a very small part of a larger collection, which may possibly be yet remaining in the trunk at Barnstable. These which the Governor had, I have before observed, were lost when his house was destroyed at the time of the Stamp Act. Thus far the history of the Judges' manuscripts I thought best to insert.

When I once saw one of the pocket volumes of Goffe's Journal for 1662, which Hutchinson shewed me in 1766, I little thought of the use I could now have made of it. As the original is lost, I regret that I did not extract and copy more of it, while in my possession, than this little reliet. In the beginning of it was the following list of names, which I then copied.

“ Isaac Ewre,
S. F. Banners,
S. T. Malevern,

| W. Purefoy,
| I. Blackstone,
| S. W. Constable,

M. Deane,
 F. Atkyns,
 F. Peckham,
 J. Moore,
 T. Aured,
 H. Edwards,
 S. G. Norton,
 I. Venn,
 T. Andrews,
 A. Stapley,
 T. Horton,
 I. Fry,
 T. Hammond,
 S. I. Bouchier, *all deceased.*

O. Cromwell,
 ——— Ireton,
 ——— Bradshaw,
 * Pride.

Wm. Ld. Monson,
 J. a. Challoner,
 Sr. H. Mildmay,
 S. J. Harrington,
 I. Phelps,
 Robert Wale,
 Sr. A. Hallerig.—*I Chal-*
loner and Sr. A. Haste-
rig, dead; the other five
are degraded, and when
taken to be drawn from
Tower to Tyburne with
ropes, &c. and impris-
oned during life.

I. Lile,
 W. Say,
 V. Walton,

E. W——,
 J. Barked.*
 E. Ludlow,
 M. Leufay,
 J. Okey*
 J. Hewson,
 W. G——,
 C. Holland,
 T. Chattr.
 M. Corbett,*
 W. Cawley,
 N. Love,
 J. Dixwell,
 D. Elagrove,
 A. Broughton,
 A. Dendy.—*Fled.*

J. Pennington,
 R. Tichbourne,
 O. Row,*
 A. Garland,
 E. Harvie,
 H. Smith,
 H. Martin,
 H. Walter,
 G. Fleetwood,
 J. Temple,
 P. Temple,
 J. Waite,
 S. Mayne,
 W. Henningham,
 R. Lileburne,
 G. Millington,
 V. Potter,
 T. Morgan,
 J. Downes.—*Condemned,*
and in the Tower."

Here are given the name of sixty-nine persons ; twenty-six of whom are dead ; five degraded ; nineteen fled, and nineteen in the Tower. Most of these were King Charles's Judges, as the following Ordinance and Warrant for his execution, with the signatures, will shew. In the above, probably *Peckham* should be *Pelham*.—*Barksd.* Okey, and Corbet, were afterwards taken and executed, 1662. Morgan was not in the Tower.—*Phelps* is *Pbilips*.

Ordinance for trying the King, made January 6, 1649.

“ WHEREAS it is notorious that CHARLES STUART, now King of England, not content with these many encroachments which his predecessors had made on the people in their rights and freedoms, has had a wicked design totally to subvert the ancient and fundamental laws and liberties of this nation, and in their stead to introduce an arbitrary and tyrannical government ; and that besides all other evil ways and means to bring this design to pass, he has prosecuted it with fire and sword, levying and maintaining a crueld war against the Parliament and kingdom, whereby the country has been miserably wasted, the public treasure exhausted, trade decayed, thousands of people murdered, and infinite other mischiefs committed ; for all which high and treasonable offences the said Charles Stuart might long since justly been brought to exemplary and condign punishment : whereas also the Parliament, well hoping that the imprisonment of his person, after it had pleased God to deliver him into their hands, would have quieted the distempers of the kingdom, forbore to proceed judicially against him ; but found by sad experience that their remissness served only to encourage him and his accomplices in the continuance of their evil practices, and in raising new commotions, rebellions and invasions. For preventing therefore the like or greater inconveniences, and to the end no chief officer or magistrate whatever may hereafter presume

traitorously and maliciously to imagine or contrive the enslaving or destroying the English Nation, and to expect impunity for so doing ; It is hereby ordained and enacted by the Commons in Parliament, that Thomas Ld. Fairfax, O. Cromwell, Henry Ireton, Esqrs. Sir H. Waller, Philip Skippon, Val. Walton, Thomas Harrison, Edward Whalley, Thomas Pride, Isaac Ewer, R. Ingoldsbey, Mildmay, Esqrs. Thomas Honeywood, Thomas Ld. Grey of Grooby, Philip Ld. Limb, William Ld. Mounson, Sir John Danvers, Sir Thomas Malverer, Bart. Sir John Bourcheir, Sir James Harrington, Sir William Aclenon, Sir Henry Mildmay, Sir Thomas Wroth, Knts. Sir William Masham, Sir J. Barrington, Sir William Brereton, Barts. Robert Wallop, William Haveningham, Esqrs. Isaac Pennington, Thomas Atkins, Bowl Wilson, aldermen of London, Sir P. Wentworth, Knt. of the Bath, Henry Martin, William Palefoy, Godfrey Rosvil, John Trenchard, H. Morley, John Barkstead, Mat. Thomlinson, John Blackinton, Gib. Millington, Esqrs. Sir William Constable, Bart. Edmond Ludlow, John Lambert, John Hutchinson, Esqrs. Sir A. Hallerig, Sir Michael Livesey, Bart. Richard Salway, H. Salway, Robert Titchburn, Owen Roe, Robert Manwaring, Robert Silburn, Adm. Scroop, Richard Dean, John Okey, Robert Overton, John Hewson, John Desborough, William Goffe, Robert Duckenfield, Cornelius Holland, John Careu, Esqrs. Sir William Armyrn, Bart. John Jones, Miles Corbet, F. Allen, Thomas Lister, Benjamin Weston, P. Pelham, J. Gourdon, Esqrs. Fr. Throp, serjeant at law, John Nut, Thomas Chaloner, Alge non Sidney, John Anlaby, John Mare, &c. Darley, William Say, John Alured, John Flagg, James Nethorp, Esqrs. Sir William Roberts, F. Laish, Alexander Rigby, Henry Smith, Edmund Wild, James Childner, Josias Berners, D. Bond, Humphrey Edwards, Greg. Clement, John Fry, Thomas Wogan, Esq. Sir Greg. Norton, Bart. John Bradshaw, serjeant

at law, Edm. Hervey, J. Dove, J. Ven, Esqrs. J. Fowles, Thomas. Andrews, aldermen of London, Thomas Scott, William Cawley, Abr. Burrel, Ant. Stapeley, Ro. Gratwick, J. Downs, Thomas Horton, Thomas Hammond, Geo. Fenwick, Esqrs. Robert Nicolas, serj. at law, Robert Reynolds, John Lisle, Nic Love, Vinc. Potter, Esqrs. Sir Gilbert Pickering, Bart. John Weaver, Reg. Hill, John Lenthall, Esqrs. Sir Edward Bainton, John Corbet, Thomas Blunt, Thomas Boone, Aug. Garland, Aug. Skinner, John Dixwell, George Fleetwood, Sim. Mayne, James Temple, Peter Temple. Daniel Blagrove, Esqrs. Sir Peter Temple, Bart. Thomas Wayte, John Brown, John Lowry, Esqrs. are hereby appointed and required to be Commissioners and Judges for hearing, trying, and adjudging the said Charles Stuart. And the said Commissioners, or any twenty or more of them, are authorized and constituted a High Court of Justice, to meet and sit at such convenient time and place, as by the said Commissioners, or the major part of twenty or more of them, under their hands and seals shall be notified by public proclamation in the Great Hall, or Palace Yard at Westminster, and to adjourn from time to time, and from place to place, as the said High Court, or major part thereof, shall hold fit: and to take order for charging him, the said Charles Stuart, with the crimes and treasons above mentioned; and for receiving his personal answer thereto; and for examining witnesses upon oath, which the Court has hereby authority to administer, and taking any other evidence concerning the same: and thereupon, or in default of such answer, to proceed to final sentence, according to justice and the merit of the cause, and such final sentence to execution, or cause to be executed, speedily and impartially. And the said Court is hereby authorized and required to appoint and direct all such officers, attendants, and other circumstances, as they, or the major part of them, shall in any sort

judge necessary or useful for the orderly and good managing the premises. And Thomas Ld. Fairfax, the General, and all officers and soldiers under his command, and all officers of justice, and other well affected persons, are hereby authorised and required to be aiding and assisting to the said Court, in the due execution of the trust hereby committed. Provided that this act, and the authority hereby granted, continue in force one month from the making hereof, and no longer."

[*Rushworth's Collection. Vol. 6. 562.*]

At the High Court of Justice for the trying of Charles Stuart, King of England, January 29th A. D. 1648.

Whereas Charles Stuart, King of England, is and standeth convicted, attainted, and condemned of high treason and other high crimes, and sentence was pronounced against him by this Court, to be put to death by the severing of his head from his body, of which sentence execution yet remaineth to be done: These are therefore to will and require you to see the said sentence executed, in the open street before Whitehall, upon the morrow, being the thirtieth day of this instant, month of January, between the hours of ten in the morning and five in the afternoon of the same day, with full effect. And for so doing, this shall be your sufficient warrant. And these are to require all officers and soldiers, and other the good people of this nation of England to be assisting unto this service. Given under our hands and seals.

*To Colonel Francis Hacker, Colonel Huncks,
and Lieutenant-Colonel Phayre, and to
every of them.*

John Bradshaw,	(L.S.)	John Okey,	(L.S.)
Thomas Grey	(L.S.)	J. Dauers,	(L.S.)
O. Cromwell,	(L.S.)	John Bourchier,	(L.S.)
Edward Whalley,	(L.S.)	H. Ireton,	(L.S.)
M. Livesey,	(L.S.)	T. Mauleverer,	(L.S.)

Har. Waller,	(L.S.)	William Cawley,	(L.S.)
John Blackiston,	(L.S.)	John Barketead,	(L.S.)
John Hutchinson,	(L.S.)	Isaac Ewer,	(L.S.)
William Goffe,	(L.S.)	John Dixwell,	(L.S.)
Thomas Pride,	(L.S.)	Valentine Wauton,	(L.S.)
P. Temple,	(L.S.)	Symon Mayne,	(L.S.)
T. Harrifon,	(L.S.)	Thomas Horton,	(L.S.)
J. Hewfon,	(L.S.)	J. Jones,	(L.S.)
Hen. Smyth,	(L.S.)	John Penne,	(L.S.)
Per. Pelham,	(L.S.)	Gilbert Millington,	(L.S.)
Ri. Deane,	(L.S.)	G. Fleetwood,	(L.S.)
Robert Tichborne,	(L.S.)	J. Alured,	(L.S.)
H. Edwards,	(L.S.)	Robert L'leburne,	(L.S.)
Daniel Blagrace,	(L.S.)	William Say,	(L.S.)
Owen Rowe,	(L.S.)	Anthony Stapley,	(L.S.)
William Purefoy,	(L.S.)	Gre. Norton,	(L.S.)
Ad. Scrope,	(L.S.)	Thomas Challoner,	(L.S.)
James Temple,	(L.S.)	Thomas Wogan,	(L.S.)
A. Garland,	(L.S.)	John Downes,	(L.S.)
Edm. Ludlow,	(L.S.)	Thomas Wayte,	(L.S.)
Henry Marten,	(L.S.)	Thomas Scott,	(L.S.)
Vinct. Potter,	(L.S.)	John Careu,	(L.S.)
William Conftable,	(L.S.)	Miles Corbet,	(L.S.)
Richard Ingoldefby,	(L.S.)		

The original signatures are in seven columns: Bradshaw stands at the head of the first column; Linsey the second; Waller, Smith, Garland, Mayne, Wogan, at the head of the succeeding ones. Fifty-nine signed the warrant, out of seventy, who sat at the beginning of the trial, and afterwards withdrew before giving judgment. Some names in Goffe's list are not in this.—Others besides the Judges were comprehended under the accusation and title of regicides,—“the number of whom, including the officers of the Court, and others immediately concerned, amounted originally to four score. Of these, twenty-five were dead; twenty-nine or twenty-seven had escaped from the kingdom; seven

were deemed proper objects of the King's mercy; twenty-nine received sentence of death, but nineteen were reprieved during the King's pleasure, because they had surrendered themselves according to the proclamation. The ten devoted to immediate execution were, Harrison, Carew, Cook, Peters, Scott, Clement, Scrope, Jones, Hacker and Axtel." [*Smollet*, V. 5. 350.]

This was 1660. In 1662, Barkstead, Corbet and Okey, and a little afterwards Vane and Lambert, were also condemned and executed. This was the state of information at the time of Goffe's entries in his journal of 1662, which contain some others beside Judges signing the warrant, and not all those; as it contains Judges who sat during part of the trial, but did not sign, and some that were not Judges, but were accused and condemned, as Phelps and Wale. Goffe's list, however, shews that he had pretty just information, as to the number in 1662 dead; the number whose ashes were to be dishonored; those adjudged to perpetual imprisonment, who were fled, and in the Tower. Enough to shew Whalley and Goffe what would be their fate if taken. This information they received while at Milford. Of the first ten executed, six only were Judges, Coke was solicitor at the trial, Peters a clergyman, Hacker and Axtel Colonels at the execution: neither were Vane or Lambert Judges. The bodies of Bradshaw, Cromwell, Ireton and Pride, were taken up at the Restoration, and hung and buried under the gallows.—These are in the second division. Of those in the third, two were dead; but the reason why separated from others dead is not obvious. It is to this day problematical, and can never be ascertained, whether the bodies of Bradshaw and Cromwell were actually taken up and dishonored at the Restoration. It is in secret tradition that Bradshaw was conveyed to Jamaica. His Epitaph is descriptive of him, and full of spirit. In a public print of 1775, it was said "The following inscription was made out three years ago on the cannon near

which the ashes of President Bradshaw were lodged, on the top of a high hill near Martha Bay in Jamaica, to avoid the rage against the regicides exhibited at the Restoration :

STRANGER,

Ere thou pass, contemplate this Cannon.

Nor regardless be told

That near its base lies deposited the dust of

JOHN BRADSHAW,

Who, nobly superior to all selfish regards,

Despising alike the pageantry of courtly splendor,

The blast of calumny, & the terrors of royal vengeance,

Presided in the illustrious band of Heroes and Patriots,

Who fairly and openly adjudged

CHARLES STUART,

Tyrant of England,

To a public and exemplary death,

Thereby presenting to the amazed world,

And transmitting down, through applauding ages,

The most glorious example

Of unshaken virtue, love of freedom, and Impartial
Justice,

Ever exhibited on the blood-stained theatre of human
action.

O, Reader,

Pass not on till thou hast blessed his memory :

And never, never forget

THAT REBELLION TO TYRANTS IS OBE-
DIENCE TO GOD.

There are no other anecdotes worthy of preservation concerning these two persons during their residence at New-Haven and Milford. We shall therefore now follow them in their pilgrimage to Hadley.

On the 13th of October, 1664, they left Milford, and proceeded in this excursion. I shall suppose that the first night they came over to New-Haven to their friend Jones, though of this there is no tradition, as there is of their making a lodgment at Pilgrims Harbor, so called from them, being twenty miles from New-Haven, at a place since called Meriden, half way between New-Haven and Hartford. Here they might rest and lodge one day, and the next night proceed to Hartford, and the night following at Springfield, and the succeeding night reach Hadley. But of this I find no tradition, saving only, that in their rout to Hadley they made one station at Pilgrims Harbor.

Being arrived at Hadley, they took up their abode at the House of the reverend Mr. Ruffel. At this house, and at the house of Peter Tilton, Esq. they spent the rest of their lives, for fourteen or sixteen years, in dreary solitude and seclusion from the society of the world. The almost only important anecdote that transpires concerning them in this secreted abode, was that of the angel appearance there, which is preserved to this day in the tradition at New-Haven and Hadley, as well as in Governor Leverett's family : and also that one or both died at Hadley, and that Whalley was buried in Mr. Ruffel's cellar, or lot adjoining his house, also as current at New-Haven as Hadley.

They came to Hadley October 1664, and Whalley died there about 1676, or 1678, and Goffe's last letter is April 2, 1679, and no more was heard of him after 1680. Soon after their arrival at Hadley, John Dixwell, Esq. another of Charles's Judges, came to them, in February 1664—5, and sojourned with them in their secrecy for some time.

Though told with some variation in different parts of New-England, the true story of the Angel is this :— During their abode at Hadley, the famous and most memorable Indian war that ever was in New-England, called King Philip's War, took place, and was attended with exciting an universal rising of the various Indian tribes, not only of Narraganset and the Sachemdom of Philip, at Mount-Hope, or Bristol, but of the Indians through New-England, except the Sachemdom of Uncas, at Mohegan, near New-London.— Accordingly the Nipmug, Quanbaug, and northern tribes were in agitation, and attacked the new frontier towns along through New-England, and Hadley among the rest, then an exposed frontier. That pious congregation were observing a Fast at Hadley on the occasion of this war : and being at public worship in the meeting-house there on a Fast day, September 1, 1675, were suddenly surrounded and surprized by a body of Indians. It was the usage in the frontier towns, and even at New-Haven, in those Indian wars, for a select number of the congregation to go armed to public worship. It was so at Hadley at this time. The people immediately took to their arms, but were thrown into great consternation and confusion. Had Hadley been taken, the discovery of the Judges had been inevitable. Suddenly, and in the midst of the people there appeared a man of a very venerable aspect, and different from the inhabitants in his apparel, who took the command, arranged, and ordered them in the best military manner, and under his direction they repelled and routed the Indians, and the town was saved. He immediately vanished, and the inhabitants could not account for the phenomenon, but by considering that person as an Angel sent of God upon that special occasion for their deliverance ; and for some time after said and believed that they had been delivered and saved by an Angel.— Nor did they know or conceive otherwise till fifteen or twenty years after, when it at length became known at

Hadley that the two Judges had been secreted there; which probably they did not know till after Mr. Russell's death, in 1692. This story, however, of the Angel at Hadley, was before this universally diffused thro' New-England by means of the memorable Indian war of 1675. The mystery was unriddled after the revolution, when it became not so very dangerous to have it known that the Judges had received an asylum here, and that Goffe was actually in Hadley at that time.—The Angel was certainly General Goffe, for Whalley was superannuated in 1675.

Although they were secreted at Hadley, yet while there, they were in jeopardy. Public enquiry was made after them particularly at two different times, one in 1665, and the other by Randolph, who probably gained some suspicious notice of them before their death, as being secreted somewhere in Massachusetts. I have already shewn that one of the instructions from the Crown to Colonel Nichols and the other Commissioners in May 1665, the year after the removal to Hadley, respected the concealment of these regicides; to which the Assembly replied, that they had departed from their jurisdiction before the proclamation arrived, and that they had sent Kellond and Kirk after them to New-Haven. Edward Randolph, Esq. was sent from England with the most malicious purposes against the country, as preparatory to the resumption of charters, and the alteration of its whole civil and religious polity. He was a subtil, sensible and assiduous Inquisitor-General over New-England, and most indefatigable and industrious in procuring and collecting information of every thing in the public affairs here, which might be wrought up into a system of accusation against the colonies, as a ground and reason to justify the intended abolition of charters, and for shewing the necessity of erecting the arbitrary general government of Sir Edmund Andros. Randolph undertook the dirty and sordid business of acting the spy and informer upon all New-England—

and such was his indefatigable industry and researches, that it was next to impossible that any thing should escape his detection. Randolph was the messenger of death to New-England, being sent to Massachusetts with his Majesty's letter of March 10, 1675—6.

Randolph came over first in 1676. He went home repeatedly, carrying accusations, and returned to New-England in 1678, 1679, 1681, when he returned collector of the customs, surveyor and searcher for all New-England; and in 1683, when he came with instructions to inquire for Goffe and Whalley, not knowing that they were both dead at that time. In 1684, the Governor gave him such answer of his ignorance concerning them, and the probability of their having gone from Manhados to Holland, as silenced all further search and inquiry; especially as it may be probable the insidious Randolph now became well satisfied that both were dead. Thus the Judges were in imminent danger from Randolph during the two or three last years of their lives: and they had reason to suppose, could the places of their deaths be known, their ashes would be dishonored, as were those of Bradshaw and others: for Whalley especially was considered as obnoxious as any of the Judges. It is true Whalley was past being affected with any such apprehensions, if alive at Randolph's accession; he was already superannuated in 1674, as appears by Goffe's letter of that date to his wife. But Goffe and Dixwell might justly entertain such apprehensions from the malevolence and virulence of Randolph, whose memory, with that of Sir Edmond Andross, has been accursed through New-England to this day.

The Judges led so reclusive and concealed a life at Hadley, that we have but few anecdotes concerning them there. They were certainly well supplied with means of subsistence to the end; partly from Europe, and partly by secret friends here. Richard Saltonstall,

Esq. when he went to England, 1672, presented them with £50. at his departure, and they received donations from several others, but doubtless very confidentially. Peter Tillton, Esq. was a member of Assembly from Hadley, and a Magistrate : he was often at Boston during the sessions of Assembly, and through his hands donations might be safely and secretly made, as he was all along in the secret, and the Judges sometimes resided at his house. His letter of 1672 will give some idea of his piety. In 1680, Richard Saltonstall, Esq. son of Sir Richard, returned from England, and was again chosen first assistant, and so the two succeeding years. He went back to England before 1683, and died there 1694. So that at the period of Randolph's inquisition for the regicides, there were at least three in the council who were privy to their secretion, viz. Governor Leverett, Mr. Saltonstall, and Mr. Tilton, and perhaps more. Indeed Governor Leverett died 1678, and Mr. Saltonstall was absent in England 1672, but Mr. Tillton was on the ground, and kept the secret from Randolph. Indeed all New-England were their friends, although they did not wish to be too knowing about them. They did not view them as traitors, but as unfortunate sufferers in the noble cause of civil liberty, prostrated by the Restoration, and again lost and overwhelmed in a return and irresistible inundation of tyranny. They no more considered themselves as protectors of rebels, than England did in protecting the exiles from Germany at the Reformation, and the refugees from France at the revocation of the Edict of Nantz.

The Judges might have some other secret retreats and temporary lodgments : I have heard of two more within ten miles round New-Haven, but not with so perfect certainty. The one about four miles from Milford, on the road to Derby, where an old cellar remains to this day, said to have been one of their recluses. This is called George's Cellar, from one George who after-

wards lived there. The other at Derby, on the eastern bank of Neugituck river, at a place then called Pawgasett, and near the church. Madam Humphreys, consort of the reverend Daniel Humphreys, and mother of the honorable Colonel Humphreys, the Ambassador, was a Riggs, and a descendant of Mr. Edward Riggs, one of the first settlers of Derby, between 1655 and 1660. She often used to speak of it as the family tradition, that the Judges who sometimes secreted themselves at the cave and in Sperry's farm, also for some time secreted themselves at Derby, in the house of her grandfather, Mr. Edward Riggs; whose house was fortified or pallisadoed in, to secure it from the Indians; there being, 1660, perhaps fewer than half a dozen English families there in the woods, ten or a dozen miles from all other English settlements, and they all lodged in this fortified house. Certainly this was a good and safe recluse. They might probably shift their residences, especially in the dangerous summer of 1661, to disappoint and deceive pursuivants, and avoid discovery. This tradition is preserved in the Riggs and Humphrey families to this day.

General Whalley died at Hadley certainly after 1674, probably about 1678. And General Goffe is to be heard of no more after 1679. Other circumstances concerning them will occur in the 4th chapter. I shall therefore subjoin here only Tillton's letter 1672, and a long letter of Goffe's to his wife, by the name of Mother Goldsmith, in 1674; and then proceed to the history of Judge Dixwell.

Copy of a Letter from Mr. Peter Tillton to his Wife at Hadley.

Boston, 18 3mo. 1672.

" Dear Wife,

"THIS opportunity gives occasion of these lines; we have had a quiet and peaceable election, no alteration or addition. O what a price doth Divine Patience

yet betrust us with, when he is drawing out the sword and arraying himself with the garments of vengeance as to other kingdoms, and when it is more than probable many garments are tumbling in blood. As to the news from England, all men, both wise and others of more ordinary capacities, look on the effect or produce thereof will be as black a day in the world, as the world hath known. The late actions in England in commissioning their fleet to seize and fall on the Hollanders, of which I wrote you in my last, breaking their league, joining with the French, assisting them with soldiers out of England, and with their principal harbors to receive a numerous army, and shutting up the exchequer, whereby many are outed of their estates contrary to all law, are things that both in England and here, by men of all sorts, are looked upon as strange, horrid, and ominous. There is another ship expected, one Jonas Clarke, if not stopped by the embargo or otherwise, in which one Dr. Hoare, a minister, is expected. Remember me to mine and thine, with my love to all with you. I cannot forget you before the Father of Spirits night and day. The good will of Him that dwelt in the bush be with you, cause his face to shine upon you all, and give you peace. So prayeth still

Yours unfeignedly to love,

PETER TILLTON."

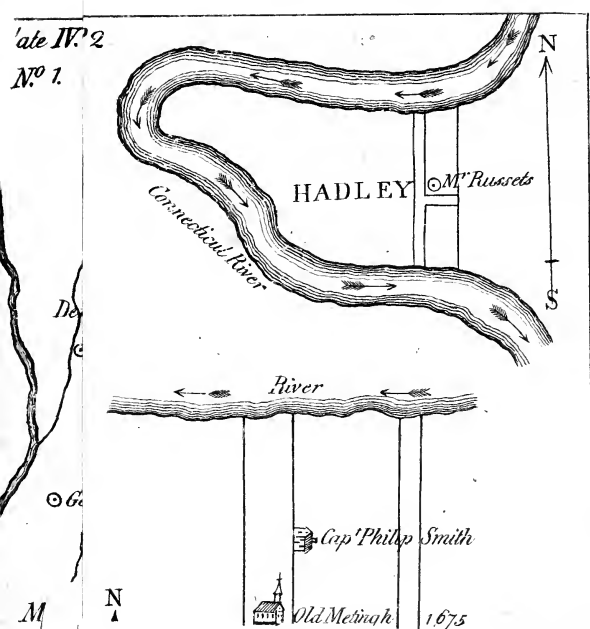
Copy of a Letter from William Goffe, to his Wife.

"*Most dear and honored Mother,*

"On the 23d July I received yours of the 29 March 1674, with the enclosed that should have come last year, hoping you have also by this time received mine of the 21st May last, which informs you how it was then with myself and your old friend Mr R. [Whalley] and that I wrote largely to yourself and dear Mrs. James, in October last, which I perceive you have not received, which I am very sorry for; but it hath been a great mercy that all my former letters came safely to

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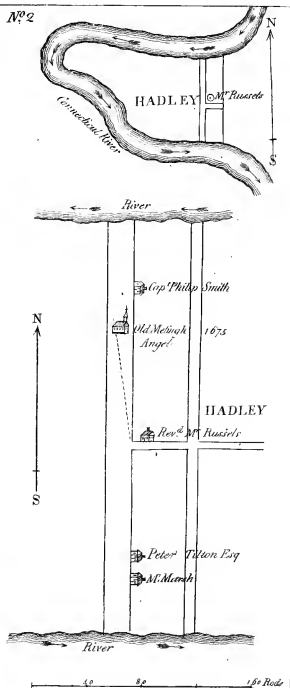
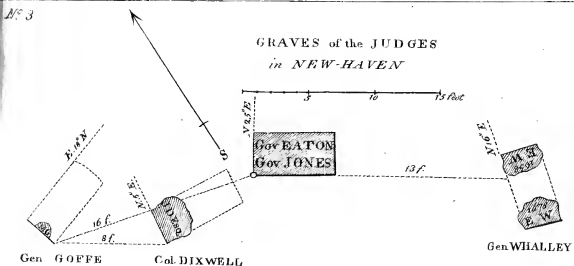
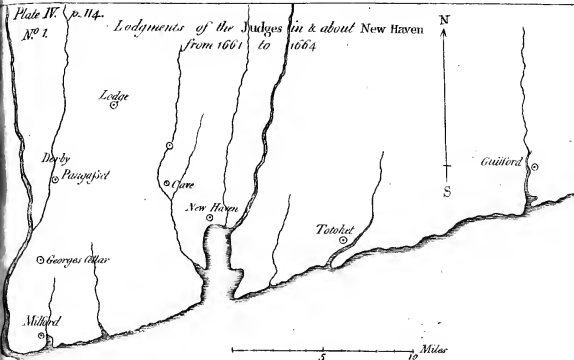
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James, in October last, which I perceive you have not received, which I am very sorry for ; but it hath been a great mercy that all my former letters came safely to

your hands, and as for those, knowing the hazard of their miscarriage by reason of the wars, I kept the copies of them, and for your further satisfaction I have again transcribed, that you may see I was not unmindful in my duty in writing to you and answering your desire of my advice concerning my sister Fr. [*his daughter Frances*] of whose disposal in marriage you have now given me the account, so far as you conceive you could, and I believe are longing to understand my thoughts of it. Dear mother, you are pleased to say well, that you gave me an account how it hath pleased the Lord to dispose of her, &c. It is indeed the Lord who is her heavenly father, that hath disposed of her and provided this husband for her, and therefore, tho' he be unknown to me, I do believe he is the fittest person in the world for her, and that she likewise is the most meet help for him. I remember in a former letter to yourself, when you desired my thoughts in a matter concerning her, I told you I was confident the Lord would take care of her and in due time provide a husband for her, and now he hath done it, shall I question whether he hath done it well? No, I dare not do it. It is a great satisfaction to me that you sought the Lord, and took advice of our dear and christian friends, and that my sister was guided in her choice by yourself and them, and desire with you to bless the Lord that hath provided so well for her, and shall not cease to pray night and day on their behalf, that the Lord will be pleased to make them great blessings to each other, and that this new condition may be every way and always comfortable to them both, for as you very truly say, it will be as the Lord shall be pleased to make it. I pray remember my most tender and affectionate love to them both, and tell them that I greatly long to see them; but since that cannot be at present, you may assure them that whilst they shall make it their great work to love the lord Jesus in sincerity, and love one another dearly for Christ's sake, and to carry it with

tender love and dutiful respect to yourself, I shall esteem it my duty to love and pray, and act faith for them as if they were my own children, being not otherwise able at this distance to be helpful to them. Dear mother, that yourself and all friends did so well approve the match gives much content to my heart, and I beseech you not to give way to any recoilings that may arise in your own spirit; do not say, as to the world, my sister might have done much better, the Lord knows what is best for us and ours; it may be that which we may think would have been better might have proved much worse. These are dying times, wherein the Lord hath been and is breaking down what he hath built, and plucking up what he hath planted, and therefore it is not a time to be seeking great things for ourselves. Let us read the 45th chapter of Jeremiah, and apply to our selves what the Lords speaks to Baruch, and account it a great mercy if he give us our lives for a prey, and bring us again to see the faces one of another with comfort. The things that Baruch is dehorted from seeking were worldly things, why then are they called great things? Surely the Lord speaks it only according to the esteem that we are too apt to have of them, for the world's great things are indeed and in truth but poor little things, and the saints should look down upon them with contempt, and shew themselves to be of high raised spirits, seeking things truly great, as our Lord himself doth exhort us, Mat. 6. 33. But seek you first the kingdom of God and his righteousness, as if he said, for they are great things, worthy your affectionate endeavors, and as for all these little things which Gentiles so earnestly pursue, they shall be added unto you so far as your heavenly Father knoweth that you have need of them. My poor sister begins her housekeeping at a time when trading is low, and all provisions dear, and I cannot but pity her in that respect. I hope she will not be discouraged nor her husband neither, but for prevention I desire them to consider seriously and to act faith

upon that most excellent counsel our Lord delivered with authority in his sermon on the mount, Mat. 6th from the 24th ver. to the end of the chapter. I cannot but be full of longings to hear how the Lord hath dealt with her in her lying in, but I doubt not you will take the first opportunity to inform us of it, in the mean time I shall endeavor to stay myself upon the promise made to child-bearing women, 1 Tim. 2. 15.

Dear mother, I have been hitherto congratulating my new married sister, but I must now turn aside to drop a few tears upon the hearse of her that is deceased, whose loss I cannot choose but lament with tears, and so share with you in all the providences of God towards us; but my dear mother let me not be the occasion of renewing your grief, for I doubt not but you have grieved enough, if not too much already. Let us consider how graciously the Lord deals with us (as for our dear sister, she is got beyond our pity, we need not lament for her sake, but rather rejoice that she is at rest in the bosom of Christ) who whilst he is taking from us with one hand, gives double with the other. He hath added one to your family on whom I hope you may set that motherly affection as if he were your own son, and I hope hath before this time also made you to rejoice in the fruit of my sister's womb; and shall not we say with Job, the Lord hath given, and the Lord hath taken, blessed be the name of the Lord. But oh how apt are we to murmur, if the Lord do in any thing displease us, but what a shame it were that we should be displeased at any thing which God doth? Who are we, that we should set our corrupt wills in opposition to his most holy and blessed will. It is blessed counsel that a reverend minister of the gospel gives, who has been in the school of affliction, that I lately met with in a printed book of his, I pray you (saith he) drink in that notion, viz. That the will of God being pure, holy, perfect, yea God himself, should not only be submitted to, or resisted in, but loved and chosen above all creatures, yea

above life itself, the best of creatures. Would we but once learn this lesson (which the Lord is, I hope, teaching of us by all his dealings with us) and help us (as you say sweetly in your letter) to see love in all his dispensations, there could nothing come amiss to us.

Dear mother, I perceive, when you wrote last, you were upon a remove from those dear friends with whom you then sojourned, I hope the Lord guided you to that motion, and shall long to hear where you settle: in the mean time it is my comfort that the Lord tells all your wanderings, and receives all your tears into his bottle, and will not fail to direct all your steps, till he hath given you a safe conduct through your wearisome pilgrimage, and at the end thereof open unto you an abundant entrance into those mansions that are prepared for you in our Father's house, where you shall be at rest in the bosom of Christ for ever.

Your old friend, Mr. R. is yet living, but continues in that weak condition of which I formerly have given you account, and have not now much to add. He is scarce capable of any rational discourse, his understanding, memory and speech doth so much fail him, and seems not to take much notice of any thing that is either done or said, but patiently bears all things and never complains of any thing, though I fear it is some trouble to him that he hath had no letter of a long time from his cousin Rich, but speaks not one word concerning it, nor any thing you wrote of in your last, only after I had read your letters to him, being asked whether it was not a great refreshment to him to hear such a gracious spirit breathing in your letters, he said it was none of his least comforts, and indeed he scarce ever speaks any thing but in answer to questions when they are put to him, which are not of many kinds, because he is not capable to answer them; the common and very frequent question is to know how he doth, and his answer, for the most part, is. very well, I praise God,

which he utters with a very low and weak voice ; but sometimes he saith, not very well, or very ill, and then if it be further said, do you feel any pain any where, to that he always answereth no ; when he wants any thing he cannot well speak for it, because he forgets the name of it, and sometimes asks for one thing when he means another, so that his eye or his finger is oftentimes a better interpreter of his mind than his tongue ; but his ordinary wants are so well known to us, that most of them are supplied without asking or making signs for them, and some help he stands in need of in every thing to which any motion is required, having not been able of a long time, to dress or undress himself, nor to feed, or ease nature either way, orderly, without help, and its a great mercy to him that he hath a friend that takes pleasure in being helpful to him, and I bless the Lord that gives me such a good measure of health and strength, and an opportunity and a heart to use it in so good and necessary a work ; for tho' my help be but poor and weak, yet that ancient servant of Christ could not well subsist without it, and I do believe, as you are pleased to say very well, that I do enjoy the more health for his sake. I have sometimes wondered much at this dispensation of the Lord towards him, and have some expectations of more than ordinary issue : the Lord help us to profit by all, and to wait with patience upon him, till we shall see what end he will make with us. Thus far I write of myself, I shall now ask him what he would have me to say to his friends concerning him. The question being asked, he saith, I am better than I was. And being asked what I should say more to his cousin R. or any other friends, after a long pause, he again said, the Lord hath visited me in much mercy, and hath answered his visitation upon me. (I give it you in his own words.) Being desirous to draw more from him, I proposed several questions, and the sum of his answers were, that he earnestly desires the continuance of the fervent prayers of all

his friends for him, and desires to be remembered to his cousin Rich, and longs to receive a letter from her, and desires her to exhort her son and daughters, his dear cousins, to fear God, and to be remembered to her aunt at Chelsey, praying that the Lord will requite all her great love, as also to be remembered to Mrs. Jaines and her good husband, to whom also he thinks himself greatly obliged for their great love, and in particular for Mrs. Jaines her care of poor Nol. desiring her to continue the same ; as also to be remembered to yourself, and wisheth Frank much comfort in her new condition, and saith he shall not ceale to pray for you and all yours. This is written on the 6th of August, but I know not when I shall have opportunity to send to Boston, it may be therefore before I send away my letter I may have something more to add concerning him.

Thus far I proceeded yesterday, but night coming on and having something else to do, I could proceed no further, and so laid aside my paper, intending this morning to finish (if the Lord pleased) my answer to yours of the 29th March. But now my first work must be to tell you that, through the great goodness of God, I did also last night, after supper, receive your welcome letter of the 8th of May (Franks birthday) wherein you let me know that you have also received mine of the 2d of October last, at such a season, which made it more refreshing to you, which is a great satisfaction and comfort to me, for which I desire to bless the Lord ; but it would have been the more full if you had but said, with the inclosed to dear Mrs. Jaines, which I have lately transcribed, together with your own, from the originals, with a purpose to have sent them with this, but I shall send neither, for I have good hopes that both were received, for I cannot but think when you complained that the door of your house was opened, if half of your goods had been taken away you would have made mention of it ; for your own letter was both the house and inventory of all the goods contained in it.

Dear mother, it is also a great comfort to me to hear that the Lord was graciously pleased to appear on my dear sister's behalf in the needful hour, and desire with you to bless the Lord for that great mercy, and I heartily thank you for giving me so quick a notice of it. Dear mother, it was likewise a great mercy that the Lord was pleased so far to satisfy your desire as to shew you the fruit of her womb, and to make you the joyful grandmother of a son, and though it hath pleased the Lord so soon to transplant him from the militant to the triumphant church, yet it may be a great comfort to yourself and my dear sister, that from your wombs hath proceeded the increase to the mystical body of Jesus Christ, and reckon it a mercy that the Lord being purposed to take him from you in his infancy, was pleased (that it might be the more easy to you) to do it before it had much time to take deep root in your affections, for I do believe the longer yourselves and his other relations had enjoyed him, the harder it would have been to us all to have parted with him: But what shall we say more? It may be such considerations as these are too selfish, it is enough to compose the hearts of the children of God under every providence, to say, it is the Lord that hath done it, our loving and tender hearted infinitely wise Father hath declared his royal pleasure, and it is our duty to submit to it, yea to rejoice in it (for it is most meet he should dispose of us and ours as shall seem good in his sight) and to apply ourselves to learn the lessons he would teach us thereby, and among the rest that is none of the least which you mention, to get our hearts weaned from creature comforts and to live upon himself as our all-sufficient soul-satisfying portion—and let my dear brother and sister remember what the H. G. saith, Lam. 3. 27. It is good for a man that he bear the yoke in his youth. Dear mother, I pray, in your next, speak a little more fully concerning his godliness, for you say nothing to that, except by the phrase of a very honest man, you mean a very godly man, as

I hope you do ; for you give the same epithet to that good man (whose word you took concerning him) of whom another friend saith that he is a very godly man, aged and wise, &c. I pray, remember my dear love to sister Judith, and tell her from me she must now be a very good child, and labor to know the God of her father, and serve him with a perfect heart and with a willing mind, 1 Chr. 18. 9. and leaving to grieve for her sister and nephew that are at rest with God, strive with all her might to be a comfort to her poor afflicted mother, who is contesting with the difficulties and temptations of an evil world. I humbly thank you for your motherly love and care for me, in your being so desirous to supply my wants ; and because you are pleased to lay your commands upon me, I shall make bold, when I need your help in that kind, to write to you for it.—There is yet a little meal in the barrel and oil in the cruise. The greatest thing I need is a heart to abide patiently in this condition until it be expended. I cannot but account it a great mercy that in these hard times you should be able to be so helpful to your poor children ; but I beseech you let not your love to them make you to forget yourself, in parting with what is necessary for your own comfort in your old age. Dear mother, you say you find nature greatly decaying in you, and therefore desire prayers that grace may be strengthened, &c. It cannot be otherwise expected but that as age comes on nature will decay ; but I beseech you preserve it what you can, and take heed of immoderate griefs, or whatsoever else may be prejudicial to your health, which you are able to avoid, and when you have done all you can, if you still perceive the outward man perishing, yet faint not, for I do believe, through the faithfulness of God, your inward man shall be renewed day by day, 2 Cor. 4. 16. I bless the Lord, though I cannot deny but I feel, with you, the decays of nature, yet I have and do enjoy a competent measure of health and strength, and beg your pardon if I have been too slow in acquaint-

ing you with and giving you the comfort of it. I thank you for what you have written concerning those relations I desired to hear of; and the rather because you say you cannot write much, through the weakness of your eyes, and I fear it may hurt them to read these long letters, for I desire you first to read and then seal and deliver the enclosed to my honored and dear friend D. G. with my best respects to him and his dear wife. My dear mother, I recommend to you the counsel and promise given to the Philippians, chap. 4. 4, 5, 6, 7. and let me intreat you to rejoice in the Lord always, and again I say rejoice; and I beseech you to remember that weak eyes are made weaker by too much weeping. Pray take heed you do not hurt yourself thereby.

But alas, I see my paper is almost done, and must yet reserve a little room for a postscript, therefore (hoping I have not forgotten any material thing I should write of) I am forced here to break off abruptly, and with my most affectionate remembrance to all friends, as if I named them, desiring the continuance of your and their fervent prayers, I recommend you and my dear brother and sisters to the tender watchful care of Him who hath borne us from the belly and carried us from the womb, and will be our God and our guide unto death, I am, dear mother,

Your most affectionate and dutiful son,

W. G.

Now, my dear mother, give me leave in a postscript to be a little merry with you, and yet serious too. There is one word in one of your letters that sounds so harshly, and looks so untowardly, that I cannot tell well how to read or look upon it, and I know not how to write it, and yet I must, though I cross it out again. I suppose you do by this time sufficiently wonder what will follow; but the matter is this, after you had given me a loving account of a business wherein you have done your best, you were pleased to say, that if I should

be *angry* you had many to bear with you, &c. Rash anger, I confess, is a burthen that needs more shoulders than one to bear it ; for Solomon saith, a stone is heavy, and the sand weighty, but a fool's wrath is heavier than them both. But oh, my dear mother, how could you fear such a thing from me ? Yourself knoweth I never yet spake an angry word to you, nay I hope I may say (without taking the name of God in vain) the Lord knoweth I never conceived an angry thought towards you, nor do I now, nor I hope never shall, and in so saying I do not commend myself, for you never gave me the least cause, neither have you now, and I believe never will ; therefore, dear mother, the whole praise belongs to yourself, or rather to the Lord, who, blessed be his name, hath so united our hearts together in love, that it is a thing scarce possible to be angry one with another. But I shall now conclude with a request that you will not be angry with yourself for writing that word I have spoken so much against, for I suppose all your meaning was, if I should not altogether approve of what was done, &c. and I am abundantly satisfied that the root from which that fear sprung was tender love, and that you speak your heart when you say you love and honor me as much as ever, which may well increase my longings after you, for the exceeding grace of God in you. Now thanks be unto God for his unspeakable gift. 2 Cor. 9. 14, 15."

CHAP.

CHAP. III.

Of Colonel DIXWELL and his Sepulture at New-Haven.

COLONEL JOHN DIXWELL was another of King Charles's Judges. He was of the priory of Folkstone, in the county of Kent. He was a junior brother of Mark Dixwell of Broome, in the parish of Barham, in the county of Kent; who died 1643, leaving in the hands and in the care of Colonel Dixwell all his estate and children, all minors, and among the rest his eldest son and principal heir, Basil, afterwards Sir Basil Dixwell. He came to New-England a bachelor, then having neither brother nor sister living. The Colonel was a gentleman in good and easy circumstances, being possessed of a manor and sundry other estates in England. Engaging in the civil wars, he became an officer in the army under the Parliament and Protectorate; was nominated sheriff of the county of Kent, and became member of Parliament for Kent in 1654. He was one of the Judges that signed the warrant 1649. At the Restoration he abdicated his country in 1660: but when he first came to New-England is unknown. Very little can be recovered concerning him for the first ten or a dozen years of his abdication. The first notice we have of him is in Goffe's Journal, while the Judges were at Hadley, wherein it is entered that Colonel Dixwell came to them there February 10, 1664—5: but ever after they call him Mr. Davids; and afterwards he went by the name of James Davids, Esq. till his death. This name it is said he assumed, being his mother's name. Governor Hutchinson says he lived at Hadley some years: his grand-daughter, Mrs. Caruthers, says only six weeks. From thence, or after various wanderings and recluses, now unknown, he at length came to New-Haven; where, though covered with a borrowed name, he however was generally sup-

posed to have been one of those who were obnoxious in England. But he carefully concealed his true character from the public.

When he first came to New-Haven is unknown.— Stephen Ball, Esq. of New-Haven, aged 67, a descendant of the original inhabitants, tells me the tradition is, that when Mr. Davids first came here, he put up and lived with an aged family, two sedate old persons, Mr. Ling and his wife, who had no children. Mr. Ling at his death requested him to assist and take care of his wife, and recommended it to her to be kind to him. He left his house and whole estate to his wife.— Mr. Davids assisted in settling the estate. And afterwards he said he did not know any better way to shew kindness and take care of her, than to marry her, and accordingly married her. She soon dying, he married another wife, and had children by her. Thus far deacon Ball. Mr. Ling's death was in 1673: his will and the inventory of his estate, £900. was then immediately entered and remain on the probate records to this day. So Mr. Davids must have been in New-Haven before 1672: and probably several years before, as a short and transient acquaintance would not have been sufficient to produce that trust and confidence, which Mr. Ling reposed in him at his death.

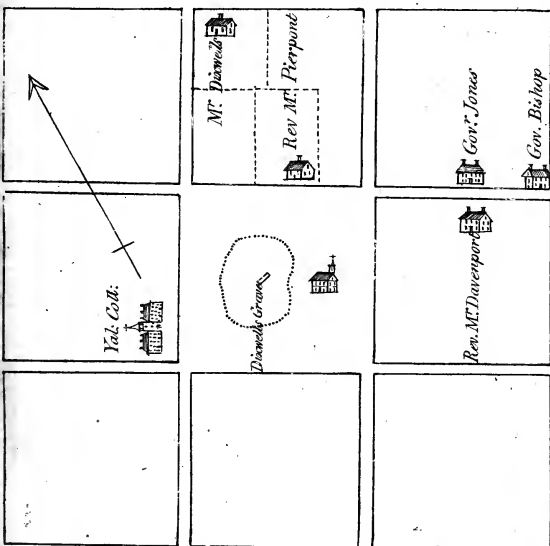
Mr. Ling's house was in a retired part of the town, at the north-west corner of what was afterwards called Mr. Pierpont's Square. * Here Mr. Davids lived in a retired indeed, but not secreted manner. For he constantly attended public worship, was openly conversant, though not very familiarly and intimately with the inhabitants, who considered him as a respectable and pious gentleman, who resided among them in a quiet and peaceable manner, without transacting any apparent business, and yet subsisting with decency, leading rather a recluse and private life. His countenance, but not his true name, was known to Mr. Jones at his first

* See *Platte V.*

CITY of NEW HAVEN

50 100 Rods

Harford Road



Val. Coll.

Mr. Dimech

Rev M. Pierpont

Gov. Jones

Gov. Bishop

Dimech's Graves

Rev. M. Davenport

Mrs. Ames

Milford Road

coming, who probably was soon after possessed of his true name and character, and proved his faithful friend till death. There is some reason to think he was early known to a very few others in town, particularly to Mr. Street and Mr. Bishop, as he certainly was afterwards to Mr. Pierpont. The reverend Nicholas Street, the minister of New-Haven, died 1674. In his will dated April 14, 1674, he requests "his beloved friends, Mr. James Davids and Mr. Nicholas Augur, to be assistants" to his wife in the settlement of his estate.— Doctor Augur was an eminent and learned physician of the town, and opulent, and of early accession, and long acquaintance with Mr. Street; whose confidence also reposed in Mr. Davids may seem to imply more than a short acquaintance, not less probably than five or six years intimacy. Mr. Street was settled in New-Haven a colleague minister with Mr. Davenport in 1658, and upon Mr. Davenport's removing to Boston, 1667, continued sole minister till his death, 1674. I believe Dixwell was unknown to Davenport, and probably did not come here till after his removal to Boston. After all, I consider the first certainty of his actually being here to be about 1672, and at least before Mr. Ling's death in 1673: while yet it is more than probable he was here still earlier. From 1660 to 1665, we know nothing of him, he was perfectly out of sight: then he just appeared at Hadley and vanished, leaving no certain trace of himself from 1665 to 1672, where we must date the first certainty of his being at New-Haven. While here he always conducted himself like a pious and exemplary christian. One says, Mr. Dixwell was a very pious and religious man, and always fasted on Friday of every week constantly." Another says, "he had the reputation of a worthy old gentleman, a very pious and holy man, and lived very much by himself and retired." Another, aged 83, speaking of Dixwell and all the Judges, says, that the good old people, when he was a boy, used to speak of these men, "as

very good, and pious, and holy persons, and they believed what they had done they did out of conscience, and that they themselves always thought they had done right."

In New-Haven records I find these entries :

" Mr. James Davids and Mrs. Joanna Ling were married by Mr. James Bishop the 3d of Nov. 1673."

" Mrs. Joanna Davids, wife of Mr. James Davids, died (between 15th and 26th in the entries) Nov. 1673."

" Mr. James Davids and Bathshebeba How were married the 23d of October, before James Bishop, assistant, 1677."

" Mary, daughter of Mr. James Davids, born 9th June, 1679."

" John, the son of Mr. James Davids and Bathshebeba Davids, was born the 6th day of March, 1680—1."

" Elizabeth, the daughter of Mr. James and Bathshebeba Davids, was born the 14th of July, in New-Haven, 1682."

" Mr. John Dixwell and Mrs. Mary Prout were married September 1, 1708."

From New-Haven church records, in the handwriting of the reverend James Pierpont, who was ordained Pastor of the church, July 1685, I extracted this. " December 29, 1685, Mr. James Davids, alias John Dixwell," admitted into church fellowship.

From hence it appears that Mr. Dixwell came to New-Haven before 1672 ; that he was known here by the name of James Davids ; that by his first wife he had no children ; that he married his second wife 1677, and by her he had three children, one of which, his only son John, afterwards married Miss Prout ; and that he was admitted a member in full communion with the church of New-Haven in 1685, within half a year after Mr. Pierpont's ordination, and this by the name of

Dixwell as well as Davids ; which shews that his true character was known to Mr. Pierpont at his first coming to New-Haven, though the tradition here is that Mr. Dixwell never revealed it till on his death bed, and then to Mr. Pierpont. In truth it was known to Governor Jones, and Governor Bishop, Mr. Ling and Mr. Street, from the beginning of his coming here, say 1672, and to Mr. Pierpont 1685, and to a few others till his death, when it was promulgated to the town.

During the seventeen years or more in which he lived in New-Haven, nothing extraordinary occurred concerning him. From 1674 to 1685, the church had no settled minister, with whom he might associate. The reverend Nicholas Street, the minister, at his first coming here, soon died. For above eleven years the church was destitute of a pastor, and supplied by occasional and temporary preaching only, till Mr. Pierpont's settlement, 1685. With him the Colonel entered immediately into an open and unreserved, but confidential communication ; but this was only for the short space of the three or four last years of his exile. During this short time there was the greatest intimacy and friendship ; which however seems for some time to have been concealed from even his wife. For tradition says that madam Pierpont observing and remarking the singular intimacy, and wondering at it, used to ask him, what could be the reason of this intimacy, and what he saw in that old man, who was so fond of leading an obscure unnoticed life, that they should be so very intimate and take such pleasure in being often together : for their house-lots being contiguous and cornering upon one another, they had beaten a path in walking across their lots to meet and converse together at the fence : and she often wondered why he should be so fond of meeting and conversing with that old gentleman at the fence ? To whom he replied, that he was a very knowing and learned man ; that he understood more about religion

and other things than any other man in town, and that if she knew the worth and value of that old man, she would not wonder at it.

Among other traditional anecdotes concerning him, this is one: The English, and perhaps Europeans in general, especially those who have been conversant in the variety of business and employments in large cities and populous towns, have a singular sagacity in judging from the external appearance and manner, a person's business and occupation in life. Sir Edmund Andross came to America, and became Governor of New-York in 1675 to 1684; and of Massachusetts from 1686 till 1689. In one of his tours through the colony of Connecticut, perhaps about 1686, attending public worship at New-Haven, he observed a venerable old gentleman at meeting, and noticing him closely, discerned something singular in him, and suspected him. After meeting he inquired who that person was, and was told that he was a merchant who resided in town. Sir Edmund replied, that he knew he was not a merchant, and became particularly inquisitive about him. Probably Colonel Dixwell was notified of the inquisitiveness of this stranger concerning his person and character; for the Colonel was not seen at meeting in the afternoon.

In connexion with this, I may mention another tradition, which I received from Major Lyon and others, indicating how obnoxious Sir Edmund was at New-Haven, as well as through New-England. Sir Edmund being at meeting here, and probably on the same Lord's day as the above, the deacon gave out the 52d Psalm to sing, in Sternhold and Hopkins's version, which begins thus:

Why dost thou, Tyrant, boast abroad,
Thy wicked works to praise?
Dost thou not know there is a God
Whose mercies last always?

Why doth thy mind yet still devise
Such wicked wiles to warp ?
Thy tongue untrue, in forging lies
Is like a razor sharp.

Thou dost delight in fraud and guile,
In mischief, blood and wrong ;
Thy lips have learn'd the flattering file,
O false deceitful tongue !

Governor Andross felt it as an intended insult upon himself, and after meeting repented it as such, and reprehended the deacon for it. But being told it was the usage of this church to sing the psalms in course, he excused the deacon, and let the matter pass off. But it is not improbable that though this might be the general usage, yet in this instance a psalm was selected for Sir Edmund's contemplation.

Colonel Dixwell carried on no secular business, but employed his time in reading and rural walks into the neighboring fields, groves and woods, adjacent to his house. Mr. Pierpont had a large library, from whence as well as from his own collection, he could be supplied with a variety of books. He often spent his evenings at Mr. Pierpont's, and when they were by themselves retired together in his study, they indulged themselves with great familiarity and humour, respect and honor, and free and unrestrained conversation upon all matters, whether of religion or politics. But otherwise when in company, Mr. Pierpont treated and behaved towards Colonel Dixwell with caution and reserve. The Colonel spent much of his retirement in reading history. As a token and memorial of his friendship for Mr. Pierpont, he in his last will presented him with Raleigh's History of the World. This book is now before me, and in it I find inscribed by Mr. Pierpont, in his own hand writing, with which I am well acquainted in the church records, "James Pierpont's book, 1689, *Ex Dono dom. John Dixwell, in testa-*

mento suo novissimo." What Raleigh wrote for the use of the learned world, as well as for his own amusement, during a fourteen years' imprisonment, under condemnation for treason, became the entertainment of Dixwell, during his twenty-eight years' exile, under the same high accusation and condemnation.

Whether Colonel Dixwell had any communication with Whalley and Goffe after he left them at Hadley, is not certainly known. But intelligence was probably kept up between them by means of Jones and Tillson. His supplies for subsistence, and their channels, are also unknown. Besides the monies he doubtless brought over with him from England, he acquired eight or nine hundred pounds by his first wife, besides his house.—His nephew, Sir Basil Dixwell, totally neglected and abandoned him. And it does not appear that he received any thing from England, during his exile, from any but his niece, Mrs. Elizabeth Westrow. And the tradition is, that in the latter part of his exile, though he was not needy, or in indigence, yet he was in straitened circumstances, for a gentleman formerly accustomed to affluence.

After having three children born to him in New-Haven, he made a disposition of his estate in England, which he expected would be restored. This he did in several indentures and writings in 1682; which he did secretly, but left them to be recorded and used after his death. His wife procured them to be approved by the judges of the county court, in 1691, which had at that time the probare of wills, and the jurisdiction of all testamentary matters, and settlements of estates.

There is no reason to think that the three Judges were ever out of New-England after their arrival in America, though there were some loose flying stories that they were at New-York. Suppose Whalley and Goffe both died at Hadley, the former 1678, the latter 1680, then Dixwell was left alone. It does not appear that Dix-

well's residence in New-England was ever suspected, either in England by the Ministry there, or by Randolph in New-England. So that he who really lived the most openly of any of them, lived the most safely and securely. He well knew, however, and fully felt the danger that the regicides' ashes might be disturbed, as he must be well apprised of the insidious vigilance of Randolph. It is possible also that the three Judges might wish that their graves might be together. What has been before narrated is delivered upon sure documents. I shall now narrate what is only conjectural, and leave it with every one's judgment; only observing that if it ever did take place, no one will doubt but that Dixwell was concerned in it. There is somehow preserved, not in universal or general, but particular and strong and lineal tradition, at New-Haven, which is to be considered more largely hereafter, that another of the regicides besides Dixwell, lies buried in our burying place, and that this other was Whalley. This is particularly preserved among the sextons, or grave-diggers, who it seems for many years, and perhaps ever from the time especially of Dixwell's death, have shewn the stone marked E. W. for Whalley, as they have that marked J. D. for Dixwell. I have not found the least tradition or surmise of Goffe till I myself conjectured it, January 1793, inferring in my own mind without a doubt, that if Whalley, who certainly died at Hadley, was afterwards removed here, Goffe would have been also. But of this, I mean as to Goffe's being here also. I can find no tradition, while yet I find it tenaciously adhered to by some few, and particularly in the line of grave-diggers, that Whalley is here. I have often examined the stone marked E. W. but consider the matter without proof, yet possible, not to say a little probable, but by no means certain. Nor do I wish, and least of all attempt to gain any one's credulity to it, leaving every mind perfectly free and unprejudiced. But as I know that whoever takes the pains which I have done,

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to trace out, and collect, and digest the traditions in New-Haven, will find this among others, however it originated among us ; so after this precaution and notification, I shall proceed to what is of some consequence in the life of Dixwell, if true ; and should it be indeed otherwise, will have no bad consequence, as not being adduced on the verity of history.

It is then supposed by some, that Whalley also lies buried in New-Haven. If so, his corpse must have been taken up and secretly conveyed here. For without repeating the proofs, it is certain he died in Hadley. Who will doubt this removal was at the procurement of his friend Dixwell, or at least that he was privy to it, and concerned in effecting it ? None. If done before 1685, none but Dixwell, Jones and Bishop, in New-Haven, and Russel, Tillton, and perhaps Smith, at Hadley, were privy to it ; and yet probably it was after Randolph's rage burned and became dangerous, which was after 1680, when Goffe was either dead or abdicated. At all events, the five or six I have mentioned must have been the principal persons concerned in effecting this removal. If so, Dixwell must have been deeply concerned in the affair ; and this event and transaction, however secretly performed, must become an important anecdote in his life, as being the last care and office of surviving friendship to the memory and to the security of the ashes of a venerable fellow exile and brother Judge. In this Governor Jones was unquestionably the efficacious agent. He and Mr. Tillton must have been the men, who procured the corpse to have been conveyed from Hadley and interred in New-Haven, in so private and secret a manner as to have eluded even the suspicion of Randolph. If Goffe died at Hadley, 1680, as is probable, the same reasons which would induce the removal of one would induce the removal of the other, and perhaps from a secret pre-concerted plan that all the three exiles should be deposited and sleep in the dust together, until they should arise

together at the resurrection of the Just. Now if all this was true, which can never be fully ascertained, it would have been, as I have said, an important event in the life and transactions of Judge Dixwell. But the whole is submitted as only conjectural ; though I shall attend further to it hereafter.

After a pilgrimage of twenty-nine years in exile from his native country, and banishment into oblivion from the world, of which seventeen years at least, probably more, were spent in New-Haven, by the name of James Davids, Esq. Colonel Dixwell died in New-Haven. He and all the other Judges lived and died in the firm expectation of a revolution in England. This had actually taken place the November before Dixwell's death, but the news not having then arrived, he died ignorant of it, about a month before the seizure of Sir Edmund Andross at Boston. At his death he discovered his true character to the people, and owned the name of John Dixwell, but requested that no monument should be erected at his grave, giving any account of his person, name and character, and alledged as a reason, "left his enemies might dishonor his ashes"—requesting that only a plain stone might be set up at his grave, inscribed with his initials, J. D. Esq. with his age and time of his death. Accordingly a plain rough stone is erected at the head of his grave, close by the tomb stone of Governor Eaton and Governor Jones, which stone is standing to this day, charged with this inscription, as at first put and engraved upon it by his friends :

“ J. D. Esq.

DECEASED MARCH THE 18th,
IN THE 82d YEAR OF HIS AGE,
1688—9.”

He left a wife and two children. His will was afterwards exhibited and approved, and recorded in the probate office, from the records of which I have transcribed the following copy.

“The last Will of James Davids, alias John Dixwell.

“I James Davids, of the town of New-Haven, being in reasonable good health and perfect memory, I bless the Lord for it, do make and ordain this my last Will and Testament in manner and form following.—*Inprimis* I give unto my loving wife, my house in New-Haven aforesaid, with the home lot, the orchard, and buildings, and also my lands at the Beaver-Pond, and one acre of arable land being in the quarter called Cooper's quarter, and likewise my land in the Neck, with the woodlands, lying in two parcels: All which I give unto Bathsheba Davids, my wife, for and during her natural life, and after her decease, I give unto my son John, my house and the lands aforesaid, unto him and his heirs for ever. *Item* I give unto my son John all such lands as fell to me by the last division, being about four score acres, to him and his heirs for ever.—And if my son John die without issue of his body lawfully begotten, then my will is, that my daughter Mary shall have the house with all the lands before mentioned, to her and her heirs for ever. *Item* I give my honored friend, Mr. Pierpont, pastor of the church of Christ in New-Haven, Sir Walter Raleigh's History of the World. *Item* I give unto my son John all the rest of my books, and my silver standish I used to write with, and my twefers which is in a red tortoise-shell case, my sword and my gun, all which I desire may be carefully kept for him. *Item* I give unto my daughter Mary twelve pounds. *Item* I give unto my loving wife, Bathsheba Davids, the rest of my personal estate here in New-England, and do make my said wife sole executrix of this my last Will and Testament. And I do hereby declare, that this will shall not extend to any thing enjoyed by me, or belonging to me in Old England. And I do earnestly desire my loving friends, Mr. William Jones and Mrs. Jones, his wife, of New-Haven aforesaid, if my wife die before my friends in England send for my children, unto whom I have com-

1658

DEG

18th IN

HIS

EW

Two feet wide & high, & 8 Inc. thick

Two, an Blue dark stone Headstone
5 Inc. the

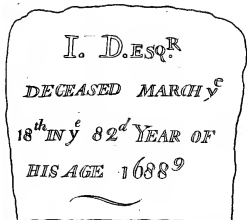
1658

EW

Footstone

“The last Will of James Davids, alias John Dixwell.

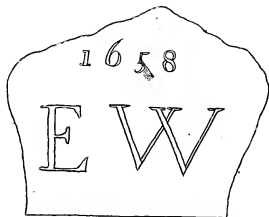
“ I James Davids, of the town of New-Haven, being in reasonable good health and perfect memory, I bless the Lord for it, do make and ordain this my last Will and Testament in manner and form following.—
Inprimis I give unto my loving wife, my house in New-Haven aforesaid, with the home lot, the orchard, and buildings, and also my lands at the Beaver-Pond, and one acre of arable land being in the quarter called Cooper’s quarter, and likewise my land in the Neck, with the woodlands, lying in two parcels: All which I give unto Bathsheba Davids, my wife, for and during her natural life, and after her decease, I give unto my son John, my house and the lands aforesaid, unto him and his heirs for ever. *Item* I give unto my son John all such lands as fell to me by the last division, being about four score acres, to him and his heirs for ever.—
 And if my son John die without issue of his body lawfully begotten, then my will is, that my daughter Mary shall have the house with all the lands before mentioned, to her and her heirs for ever. *Item* I give my honored friend, Mr. Pierpont, pastor of the church of Christ in New-Haven, Sir Walter Raleigh’s History of the World. *Item* I give unto my son John all the rest of my books, and my silver standish I used to write with, and my twefers which is in a red tortoise-shell case, my sword and my gun, all which I desire may be carefully kept for him. *Item* I give unto my daughter Mary twelve pounds. *Item* I give unto my loving wife, Bathsheba Davids, the rest of my personal estate here in New-England, and do make my said wife sole executrix of this my last Will and Testament. And I do hereby declare, that this will shall not extend to any thing enjoyed by me, or belonging to me in Old England. And I do earnestly desire my loving friends, Mr. William Jones and Mrs. Jones, his wife, of New-Haven aforesaid, if my wife die before my friends in England send for my children, unto whom I have con-



*Two, and a quarter feet high & broad
5 Inc. thick; red stone. Head stone.*



*One foot broad ten Inch high.
Head stone*



*Two feet wide & high, & 8 Inc. thick
Blue dark stone Head stone*



Footstone



mitted the care and education of them, that they would receive them into their family and take care of them till my friends have opportunity to send for them, and what charge and expence they shall be at thereby, to be repaid to them. And I desire also my good friends aforesaid, that what belongs to my children here, they would take care that it may be preserved for them. In witness whereof I have hereunto set my hand and seal, dated the seventh day of May, one thousand six hundred eighty eight.

Signed and published } JAMES DAVIDS (L.S.)
in the presence of }

JAMES CLARKE,
JAMES HEATON.

I do also hereby signify my mind and will to be, that such of my books as have my daughter's name written upon them, belong to her, and that she shall enjoy them.

JAMES DAVIDS."

"An inventory of the estate of Mr. James Davids, late of New-Haven, deceased, taken and apprizd by Captain Moses Mansfield and Thomas Tuttle, June 10th, 1689," amounting to £276 12 6. and among other articles, housing and homestead, £65. By a cursory review of a number of inventories, about this time I should judge Mr. Dixwell's estate better than those of half the inhabitants of New-Haven, who were comfortable livers; and consequently that he was not reduced to indigency. I have often been in his house, which was standing till twenty or twenty-five years ago. It was a comfortable, two story, old fashioned house.

Immediately after his death the news of the revolution and of the accession of King William and Queen Mary arrived here. Upon which things took a new turn, and assumed an aspect more favorable to civil and religious liberty. In a little time therefore, or in about two years after Dixwell's death, it became safe to bring

forth the following indentures and writings, which I find recorded in the probate office at New-Haven; and which I have transcribed and copied from the records of that office, as they will illustrate the history of Colonel Dixwell.

Extracts from the New-Haven records.

“Here follows a record of several deeds and other writings, recorded at the desire of Mrs. Bathsheba Davids, and the allowance of the county court.

“Dixwell, John, Esq.

“This indenture, made the tenth of October, in the year of our Lord God one thousand six hundred eighty-two, between John Dixwell, alias James Davids, of the priory of Folkestone, in the county of Kent, Esq. of the one part, and Bathsheba Dixwell, his wife, on the other part, Witnesseth, That the said John Dixwell, alias James Davids, for the natural love and affection he beareth to his said wife, Hath given, granted and confirmed unto the said Bathsheba Dixwell, his wife, All that his farm lying in the parish of Hougham, in the county of Kent, with the houses and buildings, and all the lands, arable, and pasture, and meadows thereto belonging, formerly in the occupation of widow Vallier. To have and to hold, and enjoy, and also to take and receive the profits thereof during her natural life, with power also to lease out said farm and lands for a yearly rent, so that it be to the value of it, and her lease extend not for above eleven years at a time. In witness whereof the parties above named have interchangeably set their hands and seals. Dated the day and year above named.

Sealed and delivered }
in the presence of }
Joseph Ailsup,
James Clarke,
Joseph Ailsup, jun.

JOHN DIXWELL (L.S.)
alias,
JAMES DAVIDS.

This writing, as above is a true record of the original. Recorded and examined pr me,

JAMES BISHOP,
Clerk of New-Haven County."

" This indenture, made the twentieth of October, in the year of our Lord God, one thousand six hundred and eighty-two, between John Dixwell, alias James Davids, of the priory of Folkestone, in the county of Kent, Esq. of the one part, and John Dixwell, his son, of the other part, Witnesseeth, That the said John Dixwell, alias James Davids, out of the natural love and affection he beareth unto said son John; Have given, granted and confirmed, and by these presents doth give, grant and confirm, unto the said John Dixwell, his son, All that his capital house, called the priory of Folkestone, with the pigeon-house, stables, barns, and all the lands thereunto belonging, called the Priory Lees, and also all that his farm called or known by the name of Sandgate Farm, with the buildings thereunto belonging, and all the lands, arable, pasture and meadow, thereunto belonging, formerly in the occupation of John Hill, or his assigns, and also all his marth lands lying in Romney Marsh, formerly in the occupation of Basil Cloake, or his assigns; and also all that his farm lying in the parish of Hougham, with all the houses and lands, arable, pasture and meadow, thereunto belonging, formerly in the occupation of widow Vallier, or her assigns; and also all his manor and farm called Buckland, near unto Havertham, in the said county, with all the houses and buildings, lands arable and pasture, thereunto belonging: To have and to hold the said houses and lands, with the manor of Buckland aforesaid, after the death of the said John Dixwell, alias James Davids, unto his said son John and his heirs forever. And if my son John die without issue of his body lawfully begotten, if the Lord should give me another son, that then the brother of the said John shall enjoy all the houses and lands with the ma-

nor aforefaid, to him and to his heirs for ever. And if there be no issue male to inherit the fame, then I give and grant all the houfes and lands beforefaid to my two daughters, Mary and Elizabeth, and to their heirs for ever. And if there be no issue lawfully begotten from the children of the faid John Dixwell, alias James Davids, then I give and grant all the aforefaid manor and lands unto my dear and loving niece, Elizabeth Westrow during her life, and after to Dixwell Westrow, her son, and his heirs for ever. And I do also hereby signify and declare that all former settlements of the lands before mentioned on any of the sons of my brother Mark Dixwell, deceased, being upon revocation, either by indenture or by will, shall be null and void. In witness whereof the parties above named have interchangeably set their hands and seals. Dated the day and year above named, 1682.

Signed, sealed and delivered in presence of }	JOHN DIXWELL, (L.S.) alias JAMES DAVIDS.
<i>Joseph Allsup,</i>	
<i>James Clarke,</i>	
<i>Joseph Allsup, jun.</i>	

“ This writing as above, is a true record of the original, recorded and examined pr me,

JAMES BISHOP,
Clerk of New-Haven County.”

Mr. Davids.

“ Whereas my brother, Mark Dixwell, of Broome, in the parish of Barham, in the county of Kent, Esq. deceased, did by his deed of bargain and sale convey and settle his whole estate upon me for the consideration of thirteen thousand pounds, to be paid to the best of my remembrance in manner following, viz. To his two daughters, Elizabeth and Bennet, two thousand pounds apiece at the time of marriage, or at the age of eighteen years, and to his second son, Heardson, three thousand pounds, at his age of one and twenty years, and also to

his son William two thousand pounds, at his age of one and twenty years, and likewise to his eldest son, Basil, four thousand pounds, at his age of two and twenty years : For the payment of which sums I entered into several bonds. Now this sale of his estate was indeed but in trust, my brother having that confidence in me I would manage his estate for the benefit and advantage of his eldest son, and pay those sums before mentioned to his younger children, did leave his whole estate and care of his children solely to me, he then casting after three hundred pounds yearly being paid to his widow for her jointure, and two hundred and fifty pounds yearly being allowed for his five children's education, allowing fifty pounds apiece for every one of them, did suppose the sums aforesaid might be raised when his eldest son came to the age of two and twenty years, not considering of any taxes to be paid out of his estate nor abatement of rents in regard to the great troubles that was then in the nation. And this trust my brother committed to me I did with all the care and diligence I could to the utmost of my power perform, in taking care for his children as if they had been my own. My brother died, as I remember, in February one thousand six hundred forty-three, and then I took upon me that trust, and paid and laid out the sums following : To his two daughters, Elizabeth and Bennet, when they married, four thousand pounds, the taxes I paid out of the estate could not be less than one thousand five hundred pounds, for his estate was assessed to the full value : I laid out at least six thousand pounds in purchasing the manor of Diggs and other lands for his eldest son, and in buildings and other necessary expenses about his chief house, and elsewhere one thousand pounds ; and for the abatement of rents those troublesome times, one thousand and twenty pounds, the sums before mentioned I do think, and rather more than less. Besides, when I came away I left with my brother's widow five hundred pounds, there being in the tenants' hands at

least one thousand pounds, which with the profits of his estate for two years more, would have gone near to have raised the other sons portions, if their mother, that was entrusted with the same had been as careful as I was. But the sums aforesaid could never have been disbursed, considering the taxes which were paid out of the estate, and the abatement of rents, and the necessary expenses about building and reparation, and his estate so increased, if I had made use of my own money, for what money I had, and what I saved out of my estate for seventeen years, I made use of to improve my nephew's, the which I suppose to be between two or three thousand pounds. And being confident of my nephew's ingenuity and honesty in paying the same, did not make any provision to secure the same when I settled his father's estate upon him; but most ungratefully and injuriously he refused to allow any thing to me for this considerable sum, nor shew any respect for the care I had of him, by making some provision for me in my afflicted estate. And that there was such a sum due to me from Basil, my brother's eldest son, his mother, now the Lady of Oxinden, was so persuaded of it she offered me two thousand pounds for it, and if she be living can testify to the truth of what I say, and to the particulars before mentioned. Besides, for seventeen years I was at great expence and trouble in managing this estate and therefore in justice there ought to be an allowance for the same: And also for detaining such a sum from me, taking advantage of my condition, and shewing unmercifulness in that they would allow me nothing for my present maintenance, that if the Lord had not extraordinarily provided for me, I had perished for want. Now being confident the Lord will appear for people and the good old cause for which I suffer, and that there will be those in power again that will relieve the injured and oppressed, the Lord having given me opportunity to change my condition, and also given me children, I think I am bound to use the best

means I can whereby they may enjoy what is so injuriously kept from me.—Therefore, know all men by these presents, that I John Dixwell, alias James Davids, of the priory of Folkestone, in the county of Kent, Esq. do hereby constitute and appoint my dear and loving niece, Mrs. Elizabeth Westrow, and Thomas Westrow, her son, my true and lawful attornies to ask, demand and receive of the eldest son of my nephew, Sir Basil Dixwell, Knight and Barronet, deceased, or his executors, or any that may be justly liable thereto, the sum of two thousand five hundred pounds, and also allowance for the trouble, charge and expence, in managing the estate aforesaid for seventeen years, and likewise with allowance for detaining the sum of two thousand five hundred pounds for two and twenty years past : and if the executors of my said nephew, Sir Basil Dixwell, or his son, or any other that may be justly liable thereto, refuse to pay or give satisfaction for the same, then to sue, implead and use all other lawful means the law and justice will afford to recover the same : And I also empower my said attornies to compound with them upon just and reasonable terms, and also to give a full discharge from the same, by release, or by making any other legal discharge which may be according to law ; and I do also hereby signify what my said attornies shall recover or receive for the same to be paid to my children according to a writing I have bearing date with this my letter of attorney. In witness whereof I have hereunto set my hand and seal.—Dated the two and twentieth of October, in the year of our Lord God, one thousand six hundred and eighty-two.

Sealed, signed and delivered in presence of	} JOHN DIXWELL, (L. S.) alias JAMES DAVIDS.
<i>Joseph Allsup,</i>	
<i>James Clarke,</i>	
<i>Joseph Allsup, jun.</i>	

“ The interlining of Thomas Westrow in this writing, - and also the other interlining, is done by my own hand, the reason being my dear niece Elizabeth Westrow being sickly, I thought fit to join her son Thomas Westrow with her in this trust, and by reason of the infirmities of my old age, being about eighty years old; and not able to new write it, and not knowing any, I durst to trust to write it for me, I hope this will satisfy any that shall make any scruple thereof. And I do hereby signify my mind to be, that if I die, it shall not null the power I have given unto the said Elizabeth and Thomas Westrow, but this my letter of attorney shall be of full force after my death as now. And I further empower the said Elizabeth and Thomas Westrow, if they die before the monies mentioned to be recovered, that they shall have power by writing under their hand and seal, to empower such as they shall think fit to recover the monies mentioned in this writing to be paid as is expressed in another writing bearing date with this, wherein my desires are fully mentioned.

May the 7th, 1688.

JOHN DIXWELL.

“ This writing as above, with that on the other side, is a true record of the original. Recorded and examined pr me,

JAMES BISHOP,
Clerk of New-Haven County.”

Mr. Davids.

“ Whereas I John Dixwell, alias James Davids, of the priory of Folkestone, in the county of Kent, Esq. have constituted and appointed my dear and loving niece, Mrs. Elizabeth Westrow, and Thomas her son, my true and lawful attorneys, to ask and demand and receive of the executors of my nephew, Sir Basil Dixwell, Knight and Baronet, deceased, or his son, or any other that may be justly liable thereto, the sum of two thousand five hundred pounds, what I laid out for the improving his estate, with allowance for the manag-

ing his estate at my own charge for seventeen years, and also for detaining the sum of two thousand five hundred pounds from me for these two and twenty years past, not affording me any thing for my subsistence the time of my affliction. Now I do hereby signify by these presents, that what shall be recovered concerning the two thousand five hundred pounds, owing to me, and also allowance for managing his estate for seventeen years, and likewise for detaining the said sum of two thousand five hundred pounds for two and twenty years, my said niece, Elizabeth Westrow, and Thomas Westrow aforesaid, in case my son John enjoy my estate which was taken from me in these times, that then they would pay to my daughter Mary one thousand pounds at the day of her marriage, or at her age of eighteen years, and if she die before she marry or attain to the age aforesaid, that then my son John shall have the same. And also my desire is, my said dear niece would take two hundred pounds for her own use, as a token of my love and respect to her; and also that they would pay to my loving wife, Bathsheba Dixwell, two hundred pounds, and what is remaining charges being allowed about recovering the same, they would pay it to my son John at his age of one and twenty years: But if my son John do not enjoy my estate, that then my said daughter Mary shall have but five hundred pounds. And I do hereby commit the education of my children and guardianship of them wholly to the said Elizabeth and Thomas Westrow, earnestly requesting, if the Lord take me out of this world, they would send for them and also my dear wife, if they please to come, for whom I have made some provision out of my estate I enjoyed; and I desire they would shew the same kindness to my wife they would shew to me. And I do make it my last and great request to my said dear niece and cousin Thomas Westrow, they would bring up my children in the knowledge and fear of God. And if any thing fall to my son in regard to my brother's estate,

N

was intailed upon me for want of issue male, they would endeavor my son John or other children may enjoy the same. In witness whereof I have hercunto set my hand and seal. Dated the two and twentieth of October, in the year of our Lord God one thousand six hundred eighty two.

Sealed and delivered }	JOHN DIXWELL, (L.S.)
in presence of }	alias
<i>Joseph Allsup,</i>	JAMES DAVIDS.
<i>James Clarke,</i>	
<i>Joseph Allsup, jun.</i>	

This writing as above is a true record of the original.

Recorded and examined pr me,

JAMES BISHOP,
Clerk of New-Haven County.

" Further instructions on the other side. "

" Mr. Davids. "

" These are further to signify my request unto my dear niece, Elizabeth Westrow, and my cousin, Thomas Westrow, her son, That I do hereby declare my mind to be, that what my dear niece, Elizabeth Westrow, out of her tenderness hath furnished me with, or yet may if this condition continue, shall be allowed to her, or such as she shall assign it to ; And I do also signify my mind to be, that my cousin Thomas Westrow aforesaid shall have for a token of my respect to him forty pounds. And my further request is, if I die before any thing be recovered, that then my dear friends aforesaid would allow unto my wife, for her and my children's maintenance, twenty pounds yearly. And I do further declare my mind and will to be, that if my son John and daughter Mary die before the times mentioned in this writing for the payment of those monies to them, as is expressed, then I do hereby signify it to be my mind and will, that my dear niece, Elizabeth Westrow aforesaid, and the children she had by her late

husband, Thomas Westrow, deceased, shall have all such monies as remain due to me to be equally divided between her and them. In testimony hercof I have hereunto set my hand, May the 7th, 1688.

JOHN DIXWELL."

"Know all men by these presents, that I James Davids of the town of New-Haven, in New-England, alias John Dixwell, of the priory of Folkestone, in the county of Kent, in Old England, Esq. being under weakness of body, and uncertain what issue the Lord will please to make with me, do think fit hereby to declare that all the power and authority I have elsewhere given to my dear niece, Elizabeth Westrow, and her son, Thomas Westrow, shall after my death or decease, continue, for the recovery of all that money mentioned in a letter of attorney already given or made unto the said Elizabeth and Thomas, authorising them as above said, unto the end and uses expressed in the said letter of attorney, and fully hereby declare, that the said Elizabeth and Thomas, or either of them, shall have and exercise all the trust, power and authority, expressed and conveyed in said letter of attorney, as fully in all respects as if I were personally present and living. In witness whereof, and for a most full confirmation of these presents, I have hereunto set my hand and seal, this fifteenth of March, in the year of our Lord God, one thousand six hundred eighty-eight, or eighty-nine.

Signed, sealed and }	JAMES DAVIDS,
delivered in presence of }	alias
<i>James Heaton,</i>	JOHN DIXWELL.
<i>Enos Talmage,</i>	
<i>John Alling, tertius.</i>	

"These two distinct writings as above are a true record of the originals. Recorded and examined prime,
JAMES BISHOP,
Clerk of New-Haven County."
End of the Records.

These entries or records are indeed without date, but they were made 1691, in the hand writing of Governor Bishop, and among his last entries, as he died 24th June, 1691. They are between a record dated to have been recorded December 3, 1690, and the record of a deed acknowledged "before James Bishop, Deputy-Governor," which acknowledgment is dated 31st of March, 1691, and the record "by James Bishop, clerk of the county," though without date. The entries in the next page of the records is in Governor Jones's hand writing. So this is the last recording of Governor Bishop.

From these papers it appears, that Mr. Dixwell had a handsome estate in England; that he received some supplies from Mrs. Westrow, but none from the rest of the family, though he had faithfully executed an important trustment for the benefit of his brother's children, and particularly Sir Basil Dixwell, who seems to have shewn no gratitude to his uncle in his distress and long protracted exile. It is probable that the estate he had by his first wife, the widow Ling, yielded him his principal subsistence for the last years of his life, if not for the whole of his sixteen years residence in New-Haven. He received something from his cousin, Elizabeth Westrow, and perhaps some private donations, as his brother Judges received at Hadley.

At his death he left a widow and two children, a son and a daughter. The family lived together eighteen or twenty years in New-Haven, immediately resuming the name of Dixwell. The son was put to a goldsmith, and through the faithful care of his friends received a good, and religious, and respectable education, and became a pious and worthy man. The daughter, Mary Dixwell, married Mr. John Collins of Middletown, December 24, 1707, the year after the death of Governor Jones and his lady, to whose guardianship Judge Dixwell had commended his two children, and

who faithfully befriended them. The son soon married and settled in Boston. Hereupon the mother, Mrs. Bathsheba Dixwell, the Judge's relict, removed and lived with her daughter Collins at Middletown, in Connecticut, where she died December 27, 1729, aged 85, on her grave-stone 86. Mrs. Collins's children were as follows :

Nathaniel Collins,	born Nov. 17, 1708.
Mary Collins,	- Sept. 23, 1710. living 1793 *
John Collins,	- Mar. 18, 1712. ob. May 6 '14
Twins—John Collins,	} Nov. 13, 1714. ob. Oct 12 '14
One died in a few hours }	
Sibbel Collins	- Aug. 16, 1716.
Abigail Collins,	- Jan. 4, 1718—19.

This account was at my request extracted from the records of the city of Middletown in 1793, by the reverend Enoch Huntington, pastor of the first church in said city.

The Judge's only son, Mr. John Dixwell, settled as a goldsmith in Boston, about 1707; and afterwards went into trade, and became a merchant in good and flourishing circumstances. He was exemplary for amiableness of manners, and for strict integrity and religion—and became an elder in the new north church in Boston, and every way sustained a very worthy character, of which there is a respectable and affectionate testimony entered in the records of that church.

John Dixwell was among those who formed the new north church. The building was raised in 1714. In 1716, it is recorded, "That our worthy brother, Mr. John Dixwell, was unanimously chosen to the office of deacon."

1720—Sept. 7, "Voted to proceed to the choice of three ruling elders, and when the votes were brought in it appeared that our worthy brethren, John Baker, dea"

*Mrs. Mary Caruthers of Bennington.

con Caleb Lyman, and deacon John Dixwell, were chosen to said office with great unanimity.

“ 1725—April 2—On this day died that excellent elder, John Dixwell, in the 44th year of his age, greatly lamented by this church, and by all that knew his singular worth and abilities.”

In 1710, he went to England to recover his father's estate, and was kindly received by Sir Basil Dixwell.—It is said the estate had not been confiscated. It was doubtless secured from confiscation by its being shewn that it was held, at least in part, by the Judge in trust for his brother's children. It appears by the indenture of 1682, that the Judge, before his leaving England, had made a settlement and transfer of all his estates to his nephews, subject however to “Revocation.” He made this revocation indeed in 1682, above twenty years after: yet in 1660, or at the time of the seizure and confiscation of the estates of the regicides, no such revocation appearing, the estate must at that time have been adjudged in law as vesting in the nephews, especially considering the trust: and also that he being attainted of treason, a subsequent revocation by him must be barred. The trust as well as assignment, and especially both conjunctly, would have been sufficient to prevent the confiscation in 1660 or 1661; and the subsequent revocation, being perhaps a nullity in law, must have prevented a recovery in 1710. And it is probable that Mr. John Dixwell, upon advising with counsel learned in the law, might find it their opinion that the attainder and abdication would be adjudged ever after to disenable the Judge from making a legal revocation.—Whereupon the estate must be left to vest in the possessors. Whether for these or other reasons, yet it is certain that Mr. Dixwell returned without the recovery of the estate. And yet he does not seem to have given up this matter, for he afterwards intended another voyage for its recovery, after Sir Basil's death, as he had pro-

misfed or encouraged him to make a son, whom he should and did name Basil, his heir. This may induce us to give some attention to a tradition narrated to me by one person in New-Haven, whose mother knew Judge Dixwell, and who is from her possessed of much of the Dixwell history; and which may suggest that the reasons for the nullification of the revocation I have mentioned, did not in fact operate so strongly, even in Queen Anne's time, as I have represented, but that truly in 1710 the matter was settled with Sir Basil, in some good measure to the satisfaction of Mr. Dixwell, though he did not then recover the full possession of the family estate. I shall state the tradition as I received it from this person, as derived from Mr. Kilby—That Dixwell's papers and all the documents were committed to Mr. agent Kilby, who was empowered to the purpose.—That while in England he communicated them first to a son-in-law of Sir Basil's, a lawyer who had married Sir Basil's daughter and only child, who became convinced and satisfied that the estate was recoverable. But as the knight was aged and would resent the motion, it was concluded the son should first open the matter to Sir Basil: Upon doing which, it is said, that the knight, as was expected, stormed and was in a great rage, asserting that he was the rightful and lawful owner of the estate. Learned counsel in the law were consulted, and the result was that the right heir was in New-England, and was recoverable especially in the more moderate days of the Hanoverian family. Upon which Sir Basil was softened, and acceded to a compromise. And that by an indenture or writing signed by Sir Basil, it was agreed with Mr. Kilby, that Sir Basil should enjoy the estate during his life, and after his death it should come to the heirs in New-England. But that on Mr. Kilby's return to America, the heir was dead, This heir was Basil Dixwell, son of elder Dixwell. This is the tradition, perhaps mistaken in some circumstances, and imperfect as to others.

If the matter was really brought to this crisis, it would not seem that the death of Basil in 1746, would prevent the descent and succession of the estate, but that it is open to this day, it not being confiscated : For although Basil died without issue, yet his brother John survived him. This story was told by Mr. agent Kilby himself, who resided sometime at New-Haven about 1760, and who then proposed erecting a monument over Dixwell's grave.

Elder Dixwell, who settled at Boston, married Miss Mary Prout of New-Haven, September 1, 1708, by whom he had the following children, born in Boston.

Basil Dixwell, born July 7, 1711. Ob. 1764.

John Dixwell, born 1718. Ob. 1749.

Elizabeth Dixwell, born 1716. Living 1793.

Innoculation for the small pox was introduced at Boston for the first time in 1721, the same year that, through the recommendation of Lady Montague it was first introduced into England from Constantinople. It is the tradition in the family of Prout here, that Mrs. Dixwell was in the first experiment, and died in inoculation. Mr. Dixwell married again, and himself died 1724 leaving three orphans, all children by the Prout venter. Thereupon their uncle, John Prout Esq. took those orphans home to New-Haven, and became their guardian. Madam Prout, his mother, took care of John ; Mrs. Mansfield of New-Haven, his aunt, took care of Basil ; and Elizabeth was taken into the family of Mrs. Christophers, his aunt, at New-London.

Mr. Basil was placed with a goldsmith at Boston ; settled at Providence ; entered the army 1745 ; and died unmarried and without issue, at Louisburg, 1746.

Mr. John Dixwell, his brother, was put to live with a brazier in Boston, where he settled in business, and entered into trade, and prospered. He married Miss

Hunt of Watertown, and died in Boston 1749. Of three children, Mary only survived to maturity, and married Mr. Samuel Hunt, preceptor of the grammar school in Boston.

The daughter, Miss Elizabeth Dixwell, who was educated by her aunt Christophers at New-London, is now living there, 1793, aged 76, the widow relict of Mr. Joseph Lathrop, of New-London, married April 22, 1739, by whom she had four sons and three daughters.

Elizabeth Lathrop, born Jan. 23, 1740.

Joseph Lathrop, born Dec. 11, 1741. Died.

John Lathrop, born June 7, 1743. No issue.

Mary Lathrop, born Feb. 3, 1744.

Joseph Lathrop, born Sept. 16, 1747.

Sarah Lathrop, born Jan. 30, 1752.

Dixwell Lathrop, born July 29, 1753. Issue 8 chil.

Mrs. Lathrop tells me, that about 1745, or 48 years ago, upon a solicitation of some friends here, Sir Basil Dixwell sent over a gratuity in monies to the family of Dixwell here, of which she received £50 for her share, perhaps equal to £20 sterling.

I subjoin a letter of Mrs. Caruthers' an aged granddaughter of Judge Dixwell, now living at Bennington, 1793, aged 83; with three affidavits, and two other letters from the reverend Mr. Pierpont and the reverend Doctor Cotton Mather, procured for me by the reverend Doctor Belknap, of Boston, from Mr. Samuel Hunt, who married Mary, the last branch of the Dixwell family, in Boston: All which may confirm and illustrate the history of Judge Dixwell.

“ Bennington, April 26, 1793.

“SIR,

“I received your letter of 16th February last, and have attended to all the matter of information which you have suggested. I find it is not in my power to

give you the certainty of information required. I am now 83 years of age, and not expecting to be interrogated upon the subject you have mentioned, I have not been particular in early life of refreshing my memory with the history of my family. I perfectly remember my grandmother Dixwell, who after my grandfather's death, lived with my mother until she died. When this event happened, I was eighteen years of age.

"I remember of hearing her mention that my grandfather, when he came to America, was a single man, and that he had neither brother nor sister living. That there were two persons from England, who were his friends (whether they came with him to Boston or after him, I do not remember) that he staid with them at Hadley, *about six weeks.*

"He communicated to my grandmother, long before his death his real name and character. Mr. Pierpont was with him in his last sickness, and mentioned to him, he was apprehensive that he was struck with death. He observed, that it did not surprize him, he was prepared, and should meet death as a welcome messenger; and that after his death, if he would examine certain papers in his chest, he would find his real name and character. This leads me to think Mr. Pierpont was not acquainted with his real name, until the death of my grandfather, * although my grandmother was well apprized of it.

"I can give no information of Goffe and Whalley, as to their age or the time of their death; although I have heard, as you mention in your letter, they died at Hadley; but I cannot say from whence I had this information. What I have related as from my grandmother I have in perfect remembrance.

"My uncle John Dixwell went to England in the reign of Queen Anne. He did not obtain any thing. He intended going a second time, but did not. One

* Mr. Pierpont knew certainly who he was in 1685.

Basil Dixwell, a relation of my grandfather, told my uncle, that if he ever had issue a son, and would call him Basil, he would make him his heir. He then had a daughter, Molly, who died very young; afterwards he had a son, whom he called Basil. He never went to England, but died unmarried in 1746.

“My uncle had all his grandfather’s papers. It is very probable the papers are with some one of the family. His children are all dead, unless it be Elizabeth, who married a Lathrop, and lived at New-London.—She is a widow, and was living when I left Middletown, in 1778. Should you write to her, or her family, it is possible you may obtain the necessary papers.

“As to the property my grandfather may have left, I am apprehensive time has changed the lawful owners. I have no expectation of receiving any part of it for myself or children. But should you, sir, receive any information on this subject, or obtain any clue to the history of Judge Dixwell, that would enable me to give you any further information, you do me a kindness in communicating it to your aged, but

Very obedient and humble servant,

MARY CARUTHERS.

To Ezra Stiles.”

New-Haven County Court, February 4, 1705—6.

“Upon the desire of Mrs. Bathsheba Dixwell, it is ordered by this Court that these following Depositions be entered, viz.

“New-Haven, October 31, 1705.

“Then personally appeared before me John Alling, the subscriber hereof, one of the Assistants of her Majesty’s corporation of Connecticut, in New-England, and Justice of the Peace, William Jones, Esq. late Deputy-Governor of said Corporation, aged eighty and one, and made oath as followeth, viz.

“That the said William Jones, deponent, sundry

years, between sixteen hundred and forty, and sixteen hundred and fifty, and in the time of the sitting of the Long Parliament, as it was then called, was resident at Westminster : And so had certain knowledge of many noblemen and gentlemen then conversant in court, and particularly had certain knowledge of John Dixwell, Esq. and that the said Dixwell was a member of the said Parliament sitting in Westminster, and had in honorable esteem then : And afterwards the said deponent transporting himself and family to New-Haven, in New-England, was informed of a gentleman of manifest great education, who in other parts of the country endeavored to lead a retired and obscure life, who called himself James Davids. The deponent further affirms, that this Gentleman called James Davids, removing from one place to another, afterwards came to sojourn in said New-Haven, whereby the deponent had opportunity of personal acquaintance and frequent conversation with him ; and certainly knew well the said James Davids to be the above named John Dixwell, whom he had often seen and known in Westminster : and that for some reasons he saw cause to abscond in these remote parts, and under the name of James Davids. This gentleman after some time married a virtuous maiden, Mrs. Bathsheba How, by whom he had three children, as appears of record in said New-Haven, one of which died in infancy, two, named John and Mary, are now living, and of adult age, reputed and known of all the vicinity to be the lawful children of said James Davids, alias John Dixwell.—The deponent furthermore affirmeth, that sometime before the decease of said gentleman, which was in the year of our Lord 1689, in his last and long sickness, he uncovered himself and made it known to his friends that his true and original name was John Dixwell : and that he had been a member of said Long Parliament, and that for sundry reasons he had concealed himself and changed his name to James Davids : So that here-

upon his relict and children have passed ever since under the name of Dixwell. The said deponent doth also affirm and testify, that the bearer hereof, Mr. John Dixwell, is the only surviving son of the aforesaid James Davids, alias John Dixwell.

“ The above affidavit taken the date first above mentioned. Pr me,

“ JOHN ALLING, Assistant.

New-Haven, January 1st, 1705—6.”

Then personally appeared before me, John Alling, the subscriber hereof, one of the Assistants of her Majesty's Corporation of Connecticut in New-England, and Justice of the peace, the Rev. James Pierpont Pastor of said New-Haven, aged forty-six, and gave oath as followeth, viz.

That the said James Pierpont, deponent, being in the year of our Lord God, sixteen hundred eighty and four, called by the people of New-Haven to the Pastoral work, observed among them an aged person of manifest great education, who called himself James Davids, but was generally supposed to be of another name; his observable wisdom and great knowledge in the English Law, State policy and European affairs, made his conversation very valuable to said Deponent, and rendered said Gentleman honourable with all that knew him. Yet said Deponent observed this Gentleman studiously to avoid public observation and employment. After many conjectures who this Gentleman should be, the said Deponent presumed he was truly John Dixwell; which, on a fit occasion, suggesting to this Gentleman in private, he seemed conceding thereto, but obliged to secrecy in that matter: Having been married as said Deponent was informed, to a virtuous Maiden, called Bathshua How; this Gentleman had by her three children, one son called John the bearer hereof, and two daughters, one of which called Mary is

now living : The said Deponent further affirmeth, that when Sir Edmund Andros took the Government of Connecticut, the said Davids, alias Dixwell, brought fundry papers (as he said of importance) sealed up, which he requested the Deponent to take into safe custody : and not to suffer the seals to be broken till after said Dixwell's decease, declaring it was not so safe under present changes those writings should be found in his hand. The Deponent also affirmeth, that the said Gentleman falling into a dropsy in the year sixteen hundred eighty and nine, whereof he at length died, sent after said Deponent, and fundry times fully declared himself to be John Dixwell of the Priory of Folkestone, in Kent, Esq. and brother to Mark Dixwell, Esq. of Broom, in the Parish of Oakham in Kent : whose relict was afterwards the Lady Oxinden, one of whose daughters was Mrs. Elizabeth Westrow, with whom said John Dixwell held correspondence until his death : He furthermore declared he had been a Member of the Long Parliament in the reign of Charles I. and for what reasons he had concealed himself under the name of James Davids, and that his proper name was John Dixwell, by which his relict and children are since called.

The above Affidavit taken the date first above mentioned. Pr me,

JOHN ALLING, Assist. & Justice of the Peace,
New-Haven, Jan. the 1st, 1705—6.

Then personally appeared before me John Alling, the subscriber hereof, one of the Assistants of her Majesty's Corporation of Connecticut, in New-England, and Justice of the Peace, Mr. James Heaton of said New-Haven, aged seventy, and made oath as followeth, viz.

“ That the said James Heaton, deponent, living next door to one Mr. Ling, there came as said deponent observed, a gentleman from some more obscure parts of the country, to sojourn with said Ling : said

gentleman called himself James Davids : his cloathing, deportment and manifest great education and accomplishments, in a little time caused many to conjecture the said gentleman was no ordinary person, but for some great reasons sought to conceal both his proper name and his character, But people could not be determined in their thoughts until said gentleman fell sick of a dropfy, whereof he died in the year of our Lord, sixteen hundred eighty and nine. In that long sickness having occasion, in preparation for his death, to sign and seal sundry writings, he was pleased to send for the said deponent among some others since deceased, to sign as witnesses to said writings ; when he manifested himself to be by name John Dixwell, and so signed his said writings. This gentleman married with Mrs. Bathshua How, by whom he had three children, one son and two daughters ; one of the daughters died in infancy, his son named John who is the bearer hereof, and his daughter Mary are now living, and pass under the name of Dixwell.

“ The above Affidavit taken the date first above mentioned. Pr-me,

“ JOHN ALLING, Assist. and Justice of the Peace.

“ *Extracted from New-Haven County Court Records, b. 2, p. 208.*”

Copy of a letter from Mr. Pierpont to Sir Basil Dixwell.

“ *New-Haven, May 4, 1708.*

“ Honorable Sir,

“ I have the honor of your's to Mr. Henry Newman of September 4, 1707, in answer to his of the 2d of that month, wherein your honor doth Col. *John Dixwell* the justice to declare him in the management of your father's Estate, a very honest gentleman and faithful friend to him, *many papers of his in my hand* manifest the truth of that character ; that he deserved the same and much honorable regard, his surviving observ-

ers cannot forget. They were doubtless mistaken who informed your honor he died in Switzerland. Anno Domini 1684 I was called to the pastoral work in New-Haven, in the colony of Connecticut, New-England, quickly observed an aged gentleman who called himself *James Davids*, his accomplishments and accurate gentility shewed him to be no ordinary person. People generally supposed there were great reasons of his reservedness. They made their guess; but could not find him out. The late Hon. William Jones, Deputy-Governor, knew his person at Westminster; but could not recover his true name; nor was it certainly known till his last sickness, which happened A. D. 1689, and as near as I can learn Anno Etatis 84. His disease was a dropsy. He lay long before it overthrew him.— During which time he often sent for me, and fully declared himself to be *John Dixwell* of the Priory of Folkestone in Kent, Esq.—and brother to Mark Dixwell, Esq, of Broom, in the parish of Barham in Kent, whose relict was afterwards, if I mistake not, the Lady Oxinden, one of whose daughters was Madam Elizabeth Boyes held correspondence by letters with him till his death. He declared also that he had been a Member of the Long Parliament, in the reign of King Charles first, and gave the reasons wherefore he had concealed himself in sundry places, and under the name of *James Davids*. He left sundry writings sealed, with order they should not be opened till after his death; which accordingly were, and exhibited in the Office of Probates: by which doth appear, that he must be truly the above said John Dixwell, that he was not only a most honest and faithful friend, as your honor most gratefully acknowledgeth; but advanced great sums for the benefit of Sir Basil Dixwell's estate during his minority, which doubtless he would with suitable acknowledgments have reimbursed, if his kind and good uncle had not been unhappily necessitated to withdraw.

Much more on this head is left under his hand and seal. Your honor's grand-father died I suppose about 1643; left three sons, Basil, Heardson and William; the two younger sons died in adult. Elizabeth married with Thomas Westrow, who died and left her with six small children. Many other particulars I could offer for your honor's further assurance, that your honor's uncle died under our observation. He left two children, John and Mary Dixwell, whose education hath been as good as our country and their small estate would allow; and truly their proficiency, honorable exemplary deportment, almost shews what root they sprang from, and declare them worthy of the name of Dixwell.¹ At the request of Mrs. Dixwell and her son Mr. John, with other gentlemen and friends, I have presumed to give your honor the trouble of this long letter; but the satisfaction of finding some branches of your honorable family and name in New-England, who want little save their father's estate, or your honor's favorable regards to render them valuable in Old-England as they already be in New-England. If in any thing may contribute to your further satisfaction, shall ready receive your commands, and with utmost truth and integrity worthy my own name and profession, shall shew that I am,

“Honorable Sir,

“Your honor's most obedient humble servant,

“JAMES PIERPONT.

“To Sir Basil Dixwell.”

Copy of a Letter from Doctor Cotton Mather to Sir Basil Dixwell.

“*Boston, New-England, Nov. 13, 1710.*

“S I R,

“From remote America there now waits upon you the only son of one who was an uncle and a father to your honorable father. A word in which I perceive your honor already sensible of a very moving and charming oratory. With an irresistible force, and a pathos

beyond any thing that we can see in the oration for Ligarius, it pleads for a most affectionate notice to be taken of him. The son of such a father !

“ Sir Basil has too wise and great a soul to let any old, forgotten, dubious, political consideration extinguish his affection for the memory of so excellent an uncle. The temptations of that day, when he was on the stage, were such on both sides, that all generous and compassionate minds easily bury in a just oblivion the differences thereby occasioned. Alas, how many changes and thwartings have you seen since that day ! enough to cool the mutual resentments of what was done in that day. Impartial posterity will confess there were brave men on both sides ; braver than any which espoused either Pompey’s cause or Cæsar’s. Our Dixwell was one of them. *Ours* in regard of his dying with us ; and worthy to be *yours* in regard of your kind aspect on his offspring. He had excellencies that render him worthy of esteem, even from enemies. How much more from a kinsman of so polished and sublimed a character, that he perfectly understands how far the ties of nature are strengthened by good quality and superior education.

“ Though your uncle be dead yet *Non totus recessit reliquit enim filium*. Do but cast an eye on this his only son. Look upon him, Sir, his personal merit will speak for him. He is one of ingenuity. He has a genius elevated above the common level of the country, where he had his birth and breeding. There is in him, a modest but yet a sprightly soul ; thoughtful and cautious enough too ; and a natural good sense agreeable to the flock of which he comes. A little cultivation which the place of his nativity afforded him *not*, would have made him extraordinary.

“ He had no share in the confusions which disturbed the middle of the former century. And he is pure blank to all the modern disturbances on your side the

water. He forfeits nothing on those accounts. Yea, I will venture to say this of him, *though he has lived for near twice seven years in my neighborhood*, I never heard that he did one ill or base thing in his life.

“ He comes not over because he is in any wants or straits ; but Sir Basil is known in these parts of the world and well spoken of. It is known that as he is able so he is willing to do good unto many ; much more to his *own kinsman* ! He is esteemed a person of honor, figure and virtue. ’Tis believed it will particularly shine in his goodness to his *own kinsman* ! People of the best fashion here have advised him to intermit his other business for half a year and wait upon his kinsman and see. ’Tis in obedience to their advice that he does what he does. His kinsman’s reputation will be advanced in these distant colonies by doing for him.

“ And among those who have encouraged him, from an high opinion we have of your generosity, be pleased, Sir, to allow him to number himself, who is your honor’s unknown, but real and humble servant,

“COTTON MATHER.”

Some account of the family of Dixwell, taken from sundry papers and fragments now in the possession of Mr. Samuel Hunt, by JEREMY BELKNAP.

Boston, July 15, 1793.

The family of Dixwell was originally of Cotton in Warwickshire, where it was subsisting in 1733, in the person of Sir William Dixwell.

Colonel John Dixwell, a member of the Long Parliament, in the reign of Charles I. brother of Mark Dixwell, of Broom, in Kent, came into New-England at the restoration of Charles II. (suppose about 1660)—His style was, John Dixwell, of the priory of Folkestone, in Kent, Esq. but for convenience assumed the name of James Davids. By this name he was mar-

ried, October 23, 1677, to Bathshua How, at New-Haven, before James Bishop, assistant.

Under the assumed name of Davids he corresponded with his niece, Elizabeth Westrow, in London, who assumed the name of Elizabeth Boyse.

His other correspondents were Frances Prince, of Amsterdam, *Jo Du Bois*, London,* *Thomas Westroe*, London,† *Humphrie Davie*, Boston.—From this last he received monies remitted by his friends in England. The following is a copy of one of the receipts :

“Received now and formerly of Mr. Hum. Davie, by the direction of Mr. Increase Mather, thirty pounds New-England money, by the order of Madam Elizabeth Westrow, in England. I have signed two receipts for this sum of this date, for fear of miscarriage.—14 June, 1686.”

The letters from his friends are directed sometimes to Mr. James Davids, *merchant*, in New-Haven—others omit this addition. They contain chiefly domestic and public news, intermixed with many pious reflections. One of them invites him to Holland, 1689, but it did not arrive till after his death.

John Dixwell, Esq. died at New-Haven, March 18, 1689, aged 82. *New-Haven records.*

Test, John Alling, recorder.

John Dixwell, son of John Dixwell, Esq. was born 1680—1. March 6, was married to Mary Prout, of New-Haven, 1708; removed to Boston, and was chosen a ruling elder of the New North Church, 1717; went to England in 1710; corresponded afterwards with Sir Basil Dixwell; died in 1724, intestate. It appears from the church records that he was a man of great worth, and highly esteemed.

* *Suppose the husband of Elizabeth Westrow.*

† *Suppose the son of Elizabeth Westrow.*

His children were, Basil Dixwell, born 1711, bred a silver-smith, then went into trade, resided at Providence in Rhode-Island; never married; went as a Lieutenant in the expedition to Cape-Breton, and there died, 1746.—Elizabeth Dixwell, born 1716; married Joseph Lathrop of New-Londer, mariner.—John Dixwell, born 1718; served an apprenticeship with William Tyler, Esq. merchant of Boston; married Mary Hunt of Boston; died 1749 intestate; left two children, and his wife pregnant. His son John died in three weeks after him, as did his posthumous child. His daughter Mary survived; married Mr. Samuel Hunt, preceptor of the grammar school in Boston; died in 1783, leaving four children, three sons, Samuel, John and George, and a daughter, Susanna, who are now living, 1793."

If it should seem by Mr. Pierpont's letter that Colonel Dixwell's true name was unknown to him and Governor Jones till he was on his death bed; it may be observed that it was in fact certainly known to them and some others years before this. To Mr. Pierpont in 1685, when he recorded his admission into the church by his true name. To Clarke and the two Allsups, in 1682, witnesses of the indentures of that date, signed by Dixwell himself with his true as well as assumed name. To others also witnesses to other instruments signed Dixwell. And the manner in which he speaks of Governor Jones and his lady, to whom he confided his children in his will, denotes an acquaintance and familiarity implying, that however at first he could not recollect his name, though he did his person, yet that he was perfectly acquainted with both his name and character long before his death. In truth he knew it long before Mr. Pierpont came to New-Haven.

Both the names and characters of Dixwell and the other Judges, with their concealments, were all along duly known to some few persons of confidence. The

honorable Mr. Secretary Wyllys, now living, venerable for age, and respectable for family and every personal merit, has often told me, and now while I am writing, tells me that *his father had seen Judge Dixwell*. His father, son of Governor George Wyllys, was the honorable Hezekiah Wyllys, an assistant, who after long improvement in public life, died 1741, aged 70. The Secretary has often heard him say that *he knew Mr. Dixwell*; that when a boy he waited upon his father, then an assistant also, from Hartford to the General Court at New-Haven (say about 1682) when they lodged at Governor Jones's during the session of the Assembly: and one morning the father in a walk took the son and carried him with him to a house on the outside of the town, when a grave old man received them at the door, to whom his father paid the greatest respect and honor, at which he much wondered. His father left him to play at the door while he went into the house with this aged person; and was gone so long that the son was tired with waiting. At length his father came out, and returning to his lodgings, as they walked along, he asked the son, who he thought that old gentleman was? He said he did not know. Upon which he further told him it was Mr. *Dixwell*. This was doubtless with design that the son might afterwards recollect that he had seen Mr. Dixwell, when in future time he might hear him spoken of. This must have been several years before Dixwell's death. In fact his true name and character were perfectly known to Mr. Wyllys and some others long before it was *formally* published by him on his death-bed, to Mr. Jones and Mr. Pierpont; which Mr. Dixwell designedly then did in an *open manner*, though among others to persons who had been well acquainted with it years before in a *secret manner*. It is not to be doubted but that at this interview he was benefitted by Mr. Wyllys's secret liberality.

Thus I have finished the history of the Generals Whalley and Goffe, and Colonel Dixwell, who found an asylum in the city of New-Haven and at Hadley, and in other parts of New-England, during a pilgrimage and concealment of twenty-nine years. All three were of King Charles's Judges ; all three of the Parliamentary and Oliverian army ; all three members of Parliament ; two of them of Oliver's most honorable House of Lords ; and all three, like Joseph in the court of Pharaoh, Daniel and Nehemiah in the Court of Persia, of purity of morals, and eminent for piety and virtue.



C H A P. IV.

An inquiry into the foundation of the immemorial surmise of some, and of the belief of others, that Judge Whalley also lies buried near Judge Dixwell, in New-Haven.

THE certain interment of Dixwell here has been all along of public notoriety, and universally known by all the inhabitants of New-Haven to this day. Many of the inhabitants have seen and all along been acquainted with his grave and the stone set up at it—but all have heard the report, and all have believed it without a doubt. Not so with respect to Whalley's interment here. Few have heard of it to this day, and fewer still have believed it. But among a few there has been an immemorial tradition, however it originated, that a pair of rough stones, marked E. W. stand over Whalley's grave, near Dixwell's. Although I have been acquainted with New-Haven burying-place above half a century, yet I never heard of Whalley's grave and it was entirely new to me when a gentle-

man of intelligence, a native of the city, first informed of it in January 1793. At first I gave no credit to it, because I well knew that he died and was buried at Mr. Ruffel's in Hadley, and had entertained no idea that his corpse had been taken up and removed hither. But the confidence and assurance of this gentleman engaged me to make a thorough inquiry among all the aged people in New-Haven, to see if I could find any tradition of this kind ; I also endeavored to search my own memory, whether among the numerous flying stories and transient information I had from time to time received concerning these persons, I could recollect any transient anecdotes concerning this matter, which through unbelief might have passed away without making any lasting impression. I have also reviewed all the scattered lights and traditions concerning the interment at Hadley ; and laid them together that every one might form his own inductions, conjectures and judgment. In this deficiency of certain information some may be curious on this subject to see whether any thing can be made of fables and traditionary rumours, partially imperfectly retained by one and another. All will consider the fact of Whalley's burial here, as unevidenced, unproved ; some will believe it ; a few will consider it probable ; in general it will be disbelieved ; and none will think it certain. In discussing the subject I shall indulge myself in going into more minutiae than may be agreeable, so as to become tedious and burthensome to most, while yet others will hereby be furnished with materials for more curious speculations, and inductions, on a subject which, since the death of the few persons in the secrets of the Judges, can never be satisfactorily investigated.

I shall narrate the matter very much in the order in which the information has come to me. Since I took up the enquiry, I have recently conversed with almost all the antient people in this town above 60, and find that most of them know nothing of the matter, and ne-

ver heard of it, while among a few I find it has been immemorially preserved. My first information was from Mr. Isaac Jones, a descendant of Governor Jones, who speaking of it with a certainty that surprized me, I asked him from whom he received it, and what evidence there was for it. He said he had always understood it so, that the stone marked E. W. was Edward Whalley's, and that he had so considered it, whenever he looked on it, for many years past, but could not name any persons with certainty from whom he received it, as neither could he with respect to Dixwell's stone, but considered both equally certain. He however believed he was told it by Mr. James Pierpont, the eldest son of the reverend Mr. James Pierpont, which would certainly be a good line of information. I then examined the stone myself with close attention, and made inquiry among all the families where I judged it most probable such a tradition might be preserved, but with little success. If ever there was such a tradition or surmise is was now almost obliterated and lost.—On the little, however, which I did collect, the patience of my readers must suffer me to be particular and prolix, as they can save themselves a further perusal, after being notified that all which follows, will prove as barren, unentertaining, and deficient of satisfaction, as the discussions of historians on the authenticity of certain letters of Mary Queen of Scots: as indeterminate as the historical discussions of the question, whether Faust, Guttemberg, or Coster, was the inventor of the art of printing? or whether Columbus, Huetra, or Behenira was the first discoverer of America, already before certainly discovered and colonized by Modog and the Norwegian navigators of the eleventh century. Curiosity may sometimes innocently lead us into inquiries, even on some subjects on which we do not expect to obtain full satisfaction.

As I knew with certainty that Whalley died and was buried at Hadley, so it occurred to me in walking to

the burying-ground to look for this E. W. stone, that the same reasons which would induce Messrs. Dixwell, Jones, Bishop, Pierpont, Ruffel and Tillton (the only men in the world that could be privy to such a transaction) to effect the secret removal of Whalley's corpse, might induce them to remove Goffe's also, though of this I have never found the least surmise: I say as I knew and considered this, so when I came into the yard, February 19, 1793, to search for the one, I searched also for the other, as supposing the three Judges might choose to lie interred secretly together around Governor Eaton's tomb-stone. I went upon this supposition, whether it can be supported or not, and found three graves, which for the sake of investigation, we will put down as Whalley's, Goffe's and Dixwell's.—When I first visited the E. W. stone, the moss of antiquity being yet upon it, both by inspection and feeling the lacunæ with my fingers, I read the date 1648, thinking it a mistake of the engraver, without once thinking or perceiving that the inverted L might be 5. But afterwards revisiting it, I perceived that the L was also 5. The moss being now thoroughly rubbed off, the 5 is more obvious than the L*. Now if it read 1658, this was two years before the Judges came to New-Haven, and about twenty years before Whalley's death; which would decide the question, and shew that the stone was not Whalley's. The extension, however, of the lineal lacunæ in a strait or direct course beyond the curve of the 5, in the manner given in the drawing, seems rather too much for accident, and has the aspect of design and artifice, for deception and concealment. The inscription upon the foot-stone E. W. and the three figures 16-8, are plain and distinct on both stones: but the intermediate figure is obscure and somewhat dubious on both. In the date of the foot-stone, the curvilinear incision 5 is pretty discernible; as discernible is the rectilinear tail of a seemingly 7, and I think the

See Plate VI.

upper line of the 7 is also pretty obvious, with every allowance for the human mind under a certain kind of possible prepossession, when, with Watts, we “guess and spell out Scipio” upon antique defaced coins and monuments. The whole seems to form this odd complex figure 57, which confuses one at first, and leaves the date to be read either 1658 or 1678, more obviously the former than the latter. There must have been some reason for that intermediate figure being made obscure and doubtful, in both stones. It seems to be too much for accident in both cases. That it should be so is unaccountable if perspicuity had not been designedly avoided and concealed, when the rest of the inscription is rough indeed, but strong, clear and distinct. The whole is represented in the Plate No. VI. wherein the numeral figures particularly are given at full bigness: which I took off by laying a sheet of paper over the stones, and impressing my finger over it along the lacunæ or engraving; and thus with a pencil taking off their shape and position. The E. W. as well as the figures on the head-stone, are at full bigness and exact: the figures only on the foot-stone. On which therefore every one may form his own judgment. Under this conjecture, that the date may be read indifferently 1658 and 1678, it may contain truth and error; error or deception if read 1658, and truth if 1678: as this might have been the true year of Whalley’s death, not otherwise certainly known. He was alive 1674, and dead before 1679, according to Goffe’s letter to his wife.

Upon the same principle of designed deception, it may be suspected that the M on the little stone eight feet west of Dixwell’s, may be taken for an inverted W: and thus W. G. be designed for William Goffe, and the 80 over those initials may be 1680. And if Goffe died also at Hadley, as Governor Hutchinson says, it is likely his death was about 1680, for his last letter was 1679, and it is said he was no more, or disappeared soon after, and not long after Whalley’s death.

If M G be William Goffe, the 80 at the top must be 1680, and not the age : for Goffe married Whalley's daughter, and entered the civil wars and army a young man about 1642 : and so he must have been born about 1613 or 1620, and consequently could be but 60, or thereabouts, at his supposed death, 1680. The figures therefore of 80 must be 1680, if they referred to Goffe.

Upon this I repaired to the town records, and examined the book which contains the births, deaths and marriages in town, in which they are regularly entered from 1649 to the end of the century. At 1654, indeed I found the death of Mr. Edward Wigglesworth, ancestor of the professor. I found that in the year 1658, there was but one death in town, Thomas Nash, who died May 12, 1658. But E. W. could not be the initials of his name. Such was the healthiness of the first settlement, as is usual in new countries, that the deaths were few and seldom, though probably 300 families now in town, for there were 208 freemen 1644, and 333 freemen in 1660; and so there is the more reason to think the entries would be accurate. I took out the number of deaths yearly for thirteen years, as follows :

1649—3.	1656—1.
1650—5.	1657—1. Gov. Eaton.
1651—5.	1658—1. Tho. Nash.
1652—2.	1659—2.
1653—1.	1660—4.
1654—4.	1661—2.
1655—2.	

I then examined the year 1678, and found two deaths only, viz. Samuel Miles and Timothy Tuttle. Neither was E. W. the initials of their names. It seems then, if these records are accurate, that no persons died at New-Haven either in 1658 or 1678, the initials of whose names were E. W. This favors the supposition of an interment from abroad, be the dubious figures 5 or 7. This as to the Whalley stone.

As to the conjectural Goffe stone,* it is to be observed that the engraving or incision is plain and distinct, with this singular circumstance, that a deep strong line is drawn along under the M, thus M, most evidently not by accident, but with design. In the records of deaths 1680, I found the names stand thus :

Ephraim How,
 Josiah, son of John Paine,
 Elizabeth, wife of John Harriman,
 John Punderfon.

But neither of these names have their initials M. G. Nor do I find these initials in the deaths entered for several years hereabouts. Which indicates that if the 80 be taken for 1680, this corpse must also have come from abroad, which would accord with the conjecture that these two graves might have been Goffe's and Whalley's whose names could not have been expected to be found in New-Haven town records of deaths.

Against all this there are two very material objections: 1. The honorable Matthew Gilbert, of New-Haven, one of the Assistants and Deputy-Governor of the Colony, died here 1679—80, so this stone might be his. 2. As his death is omitted in the records, so this invalidates our confidence in the records. I am not able to solve this last objection. I cannot account for this omission of so distinguished and respectable a character. But of this I am sure that he was so honored, acceptable and revered, that it was by no means designed, but perfectly accidental. We know that omissions sometimes take place undesignedly, and by an unintentional neglect in those public records which are most faithfully kept. The records of New-Haven, especially the first and most ancient, appear to have been kept with great care and accuracy. I chuse to state this in the strongest manner. So conspicuous a person no one would think of omitting designedly. But as it was an immemorial usage, and required from the

beginning by law, for the friends to procure the recording of births, deaths and marriages, and never was the recorder obliged to do it *ex officio* until brought to him, so this omission must have happened through family neglect. And though this might possibly take place in other instances also, yet so established was the general usage of that early day, that it is very unlikely this should have happened often : so that there may be a general reliance upon the veracity of the records, this notwithstanding. Whether this or any better reason for the omission was the true one, must be submitted.

It is possible then that this M. W. stone may be Matthew Gilbert ; it is possible it might have been Mary Goodyear, or some other person whose initials were M. G. Let us consider the probability of its having been Matthew Gilbert's. Now the 80, if denoting 1680, agrees well with the time of his death. The contemptible and despicable appearance of the stone is against it. It will ever be difficult to persuade a New-Haven man, and especially one of the family of Gilbert, that so small and insignificant a stone was put up at the grave of so honorable an ancestor, and so distinguished a person in civil life as Governor Gilbert. Further, although his grave and stone are not now to be found, yet none of the family or friends think of his having been buried in that spot. They show a very different and distant part of the burying yard as the original place of the sepulchres of their ancestor and of the family of Gilbert, viz. at and about the S. W. corner of the brick meeting-house. Hereabout lie many of the Gilbert family, whose grave-stones remain to this day, and here they tell me Governor Gilbert, their common ancestor, was buried. But his stone is not now to be found.— Captain John Gilbert was slain by the enemy at the invasion of New-Haven, July 5, 1779. His friends sought a place for his grave, and buried him in that part of the yard where the Gilbert family lie buried. His son, Mr. Jesse Gilbert, a man of enterprise, curiosity

and information, tells me that when he was setting up a stone at his father's grave, he took pains to look for that of his ancestor, the Governor. Not being able to find it, he enquired of a Mr. Joseph Brown, the New-Haven antiquarian, remarkable for embosoming in his strong memory more of our antiquities than any man I was ever acquainted with. He was born 1701, and lately died aged 90, in the full possession of his mental powers, his memory being good to the last. Mr. Brown told him he well remembered Mr. Matthew Gilbert's grave-stone, and that it stood in that part of the burial-ground where the Gilbert family were generally buried—that at the time of building the brick meeting-house, which was about 1754, they encroached upon the eastern side of the cœmety, and took down several grave-stones, and among others this of Mr. Matthew Gilbert, the antient Assistant and Deputy-Governor: and that he should judge from his recollection, that this grave was directly under the S. W. corner of the brick meeting-house. Adjacent and quite contiguous to this S. W. corner of the meeting-house, has been the immemorial place of the Gilbert family. This I consider as decisive proof that the M. G. stone in question, ten rods N. W. is not that of the honorable Matthew Gilbert, Esq. though he died in the winter of 1679—80. As to which M. G. stone there is no light either from the bill of mortality or tradition. It might be Goffe's; it might have been some other person's; but it certainly was not Matthew Gilbert's. And there being no person of those initials in the bill of mortality for 1680, leaves room for a suspicion or conjecture, that like E. W. it might designate an interment from abroad.

Madam Whittlesey, aged 60, relict of the late reverend Chauncy Whittlesey, tells me, she has often heard Mr. Prout, the aged gentleman treasurer of the college, whom I have heretofore mentioned, narrate the story of the three Judges: and among other things he said, that Dixwell died here, and as to the other two,

one of them died and was buried at Hadley in Mr. Russell's cellar, and the other they knew not what became of him ; but some said that he came off to the westward, and some, says he, have supposed that he lies buried in our burying-yard ; but of this, says he, no one knows any thing with certainty. However new and unthought of this was to me when Mr. Jones first told me of it, yet upon conversing with many, and hearing so much said upon the matter, I set myself to recollect whether I had ever come across any thing of the like before.— And I do recollect that some time or other above forty years ago, or 1750, when Mr. Prout first shewed me Dixwell's grave, he added, “ and some have thought that another of these Judges lies buried somewhere in our burying-ground, but where is unknown.” But I have no remembrance that it was he that survived and came off from Hadley. It made so transient an impression upon my entirely incredulous mind, that it has been for many years totally obliterated. And though I now clearly recollect the flying fable, yet I felt and considered it as a vague rumour or surmise, wholly without foundation. I gave not the least heed or credit to the surmise.

Some persons are of a singularly tenacious and retentive memory, and treasure up things in conversation which vanish from others who hear them with cursory inattention. Such is Mrs. Beers, consort of Isaac Beers, Esq. born in this town 1746, and now aged 47. She is well read, is an excellent historian, and is versed in the family anecdotes and antiquities of New-Haven.— She is of the Mansfield family, and a lineal descendant from Major Moses Mansfield, her great grand-father, who died 1703, aged 63, and who was one of the appraisers of Dixwell's estate, and made up his inventory for the probate office, and was intimately acquainted with the history of Dixwell after his death, and I presume with the history of Whalley and Coffe. Her grand-mother was of the family of Alling, the assistant,

about the close of the last century, also well acquainted with the story of the Judges. The honorable John Alling, Esq. had three daughters, sensible, very worthy, and venerable, and sociable matrons, one of whom was Mrs. Beers's grand-mother. They often met together on social visits at her grand-father, deacon Mansfield's, son of the Major, who was born 1684, or four years before Dixwell's death, who was also full of the story of the Judges. This visiting circle and family connection had the greatest esteem and veneration for the Judges, and in their visits together were often talking over the stories about them. Mrs. Beers, when young, was often among them at her grand-mother's, and heard these good ladies converse on these matters, and tell all the anecdotes concerning them. She used to sit and listen to them with attention, while the other grand-children took little notice of the discourse. So different are the tastes of children, that what strikes one's curiosity will not touch another's. Mrs. Beers was born an historic genius, and curious narratives were food and delight to her mind. I think this particularity in describing characters necessary, in this case, towards making the most or best of what otherwise might be deemed information too slight to have any weight.—Mrs. Beers has from this source as much of the interesting history of the regicides, not only of Dixwell, but Goffe and Whalley, as most persons, and narrates several anecdotes with singular precision and accuracy; but as they coincide with what I have gone over before, from other more certain sources, I do not repeat them. But what I principally aim to avail myself of from her, is what respects *more than one of the Judges* being buried in New-Haven. From the conversation of her grand-father, and these pious matrons among themselves, she was as indelibly impressed with the idea that "*they all,*" that is, all the other Judges, lay buried here, as that Dixwell was here, and had no more doubt of the one than the other. She cannot distinctly remember the

heard this or the other of the women say so ; but their repeated, long and uniform conversation left this impression on her mind. She always supposed that the rest of the Judges lay here. She had not, however, been shewn the graves till since she grew up and was married. But about the beginning of the war, or 1776, upon gentlemen's being engaged to visit the Judge's grave, she had a curiosity to visit not it, but them also, for hitherto she considered all of them lying here. Accordingly walking with Mr. Beers into the yard, he shewed her Dixwell's stone ; and after viewing and reading the inscription, she turned about and said, " and where are the others ? " Upon being told there was no other, she could scarcely believe it, as she had always conceived from the conversation before mentioned, that the others lay there also. She said the others must be there : but being assured there were no others, though she said she felt disappointed, and knew not how to account for her mistaken idea, yet she gave it up as a mistake. But to this day the impression made by the women and her grand-father respecting not only more than one, but all of them lying there, is strong, and yield only to the historic evidence, which she considers certain, that the others died at Hadley. But her information feels to her to this day as if *all were buried here*. But how they should come here she has not the least trace of information, conceiving in her own mind that they had all died here. She never heard any thing about any removal of the corpses from Hadley hither, and never was impressed with any such thought, nor heard a suggestion of the kind : while yet till that time she had no doubt but all of them were here. This, however, shews that twenty or thirty years ago it was in the idea of some that more than Dixwell was here. A member of Congress, now living, when passing through New-Haven to Congress in 1774, was shewn Dixwell's and Whalley's stones at the same time, with such information, that, in 1793, he said he doubted not that both lay here.

It has always been in public fame that of the two Judges at Hadley, one died there and was buried in the minister's celler; but which this was, was never said; and that the other, to escape Randolph's dangerous searches, disappeared, and was supposed to have gone off to the west towards Virginia, and was heard of no more. This I perfectly remember to have been the current story in my youth. No one in conversation pretended to designate which was which, until 1764, when Governor Hutchinson first published his history. Ever since this, for now about thirty years past, the public rumour has sometimes spoken with more precision and accuracy, designating Whalley as the first that died at Hadley, and that he that same considered as going off to the westward was Goffe. It is necessary to distinguish the two periods, that from 1680 to 1764, and that for the last thirty years, as the same reports are spoken of with different information in the two periods. When therefore Mr. Prout and others used to speak of one going off to the westward, no one before 1764 thought of its being Goffe more than Whalley. Since 1764 every one might know it was Goffe if either, and certainly not Whalley. Hence the few here who have immemorially had the idea of Whalley's stone, had not the refutation at hand till since 1764, that it could not be his, because he was the one that died at Hadley. It seems to have been the idea of Mr. Prout and the few others, that the E. W. stone denoted him that went off from Hadley westward, and was overtaken by death at New-Haven, and secretly interred here by his friend Dixwell, who had the same reason for secreting E. W. as himself. And yet the information of Hutchinson does not seem to have been so accurately attended to, even by some few judicious persons, as to have abolished this traditionary confidence still to this day, that this is Whalley's stone: and most of the people in New-Haven talk to this day only with the traditionary knowledge antecedent to 1764.

When I say that the public did not distinguish till 1764, I would except the Ruffel family at least, and perhaps the Tillton family. But there is reason to think, while accuracy was soon lost in other families, some of which might be possessed of particular information, the truth was kept up the longest in the Ruffel family, which was the depository of a trunk of manuscripts of Goffe's and Whalley's, which came down undispersed till since 1760, remaining and preserved at Barnstable from soon after the death of the Judges to that time. Mrs. Otis, of Barnstable, a grand-daughter of Mr. Ruffel of Hadley, as I have before observed, spent much time in reading these manuscripts, as she has told me, and gave me much account about them, being thoroughly versed in the history of the Judges. I do conceive that Mr. Ruffel of Barnstable, and Mr. Ruffel of Branford, both ministers and sons of the Hadley Ruffel, were perfectly acquainted with all the secrets of this history beyond any men. Others had it partially, these perfectly. I had it in my power thirty years ago to have become perfectly acquainted with the subject, and now regret that my curiosity was not strong enough to have excited me to improve an opportunity now lost by death; which has buried much certain information in an oblivion from which it can never be recovered.

In this failure of *primary* and certain evidence, and while we are left to avail ourselves only of *secondary*, traditional and derivative information, I think not improper to state the dangers during the lives of those contemporaries who were in the secret of the Judges, with whom all certain information perished, and to shew that sure and certain information has continued the longest in the Ruffel family, from whom it is possible the tradition of the burial of another or the other Judges in New-Haven may have derived. A repetition of some circumstances and facts, may be pardoned, as subserving different applications and uses in the course of this history.

I have already observed the danger that arose to the Judges and their protectors from Randolph, during the period of thirteen years, from 1676 to 1689. All which time he was an insidious spy upon New-England, with Argos eyes, and with the zeal and acrimony of an inquisitor-general. By his crafty and incessant searches for misdemeanors, he came across some lights concerning these Judges, long thought by the ministry to have been dead in foreign lands. Whalley died soon after, or about the time of Randolph's first arrival, say 1678 or 1676; and Goffe vanished after 1679. In 1684 was Randolph's most vigorous search; but it seems it was judged not prudent and safe to inform him of their death, undoubtedly because the persons of their concealers were in danger of being called in question by his inveterate malice, or least violence should be done to their graves. It is probable he never had any notice or suspicion that Dixwell was here. Whalley being under superannuation, might feel no alarm, if living, and he certainly was dead before Randolph's exertions. But Goffe and Dixwell, and their concealers, must have been greatly alarmed. We may consider all the three Judges alive 1678, Goffe and Whalley dead by 1680, and all were dead by 1689.

Such was the vigilance, activity and malice of Randolph, that the two actually surviving Judges had reason to think that both their persons and ashes would not escape his malicious vengeance, if discovered. There was therefore a sufficient and very powerful inducement for the concealment both of their persons and places of interment. And the danger of some accidental discovery might induce a removal of the bodies of Goffe and Whalley from Hadley to New-Haven, in the dangerous period about 1680 to 1684, while the ravenous Randolph was making inquisition. And although the storm was in some measure blown over soon upon the death of Dixwell, and the seizure of Sir Edmond Andross one month after, or April 18, 1789; yet the con-

cealers, who were liable to be prosecuted and adjudged aiders, abettors, and accessaries in treason, would not feel easy under the possibility of detection, during their lives; and would have every motive to continue the concealment of as much of the affair as possible. To shew the danger of concealing traitors and obnoxious persons, knowing them to be such, we need only advert to the execution of Lady Alicia Lisle, relict of one of the regicides who died abroad: a fact well known at the time by the accomplices concerned in the concealment of the Judges in New-England. This pious and venerable lady surviving her consort, and living in peace for many years, "was tried in 1685, by that disgrace to human nature, Judge Jeffries, for concealing a Mr. Hicks, a dissenting minister, and Mr. Nelthorpe, who attended the Duke of Monmouth, when he made his expedition into England." "She was beheaded at Westminster universally pitied.—[*Noble's Memoirs of the Cromwell family*. V. 2. P. 471.

This came over to New-England, and though an event after the death of Whalley and Goffe, must have excited terror in Dixwell, Ruffel and Tilton, and the gentlemen in New-Haven then living and concealing Dixwell; and consequently, if detected, more obnoxious than Lady Lisle. It must have made them very cautious. Every thing therefore continued to be kept a profound secret; nor do I think that Hadley itself had any knowledge that they had embosomed and entertained angels, till after the seizure of Andross, and the news of the revolution, if indeed till after the death of their minister, Mr. Ruffel, in 1692, or the recording of Dixwell's papers in 1691; after which the affairs of the Judges began to be more freely talked of.

After the revolution and extirpation of the Stuart family, 1688, and the halcyon days of the new charter of Massachusetts, in 1692, from King William III. and especially after the public probate of Dixwell's will, 1689, and recording of his indentures, 1691, signed

James Davids, alias John Dixwell, and his avowal upon his death-bed of his being one of the Judges, it became impossible to keep up an entire concealment of their residence and protection at Hadley and New-Haven. Yet even in these open times, and when so much of their history was got abroad, some reasons or other operated both against the full developement of the affair, and of the persons concerned in the protection, and also for the continuance of the concealment of the places of the interment of Goffe and Whalley.

The reverend Mr. Ruffel and Mr. Tillton knew with certainty what was become of Whalley and Goffe : and it is not to be doubted that Dixwell, Pierpont, Jones, and Bishop, knew the same thing with a derivative certainty. They could have as easily communicated the certainty of the place of interment, as of their residence and death. There was a reason of weight with them why they did not, or if they did at all, that it should be confidential, and not for the public. Should we mistake in conjecturing the reason, it is of no moment.— Enough for us to know that there was one, and that it wrought too efficaciously. Perhaps it was partly to preserve the bodies of the deceased from violence, and principally to secure the persons of the protectors. This last endured till the death of Mr. Pierpont, at least 1714—and yet the most of the gentlemen active and in the secret, died before and about the revolution. Governor Jones and Mr. Pierpont survived the longest. Let us state the persons in danger, and the times of their deaths.

The reverend Mr. John Davenport, ob. March 15, 1670, aged 72.

The reverend Mr. Ruffel, ob. December 10, 1692.

Honorable Peter Tillton, Esq. ob.

Governor Leveret, ob. 1678.

Governor Leete, ob. 1687.

Governor Jones, ob. October 17, 1706, aged 82.

His Lady, ob. April 4, 1707, aged 74.

Deputy-Governor Bishop, ob. June 24, 1691.

Judge Dixwell, ob. March 18, 1688—9, aged 82.

Reverend Mr. Pierpont, ob. Nov. 22, 1714, *Æ* 55.

Mr. Richard Saltonstall went to England 1672, returned 1680, went to England again 1683, and died there April 29, 1694.

The most of these were deceased by 1692. Certain information survived into this century only with Jones and Pierpont, and the two brothers, Ruffels, of Barnstable and Branford, and possibly some few others unknown to me ; and after 1731, only with him at Barnstable, and expired with his death, 1758, unless it survived with his brother, honorable Judge Joseph Ruffel, of Bristol, who died about 1775.

It may be proper to distinguish the degree and state of information under three different periods : that from the accession of the Judges to America, 1660, to 1690, or rather the death of Mr. Ruffel, 1692 ; that from thence to the death of his son at Branford, 1731, and lastly, the period from thence to the present day.

1. The first may be called the period of secrecy and public ignorance. For though within this space of about the first thirty years there was a little open knowledge of them at the beginning, yet they soon so evanished and buried themselves from the public view, that except some little apprehensions of them in 1664 and 1684, which soon passed off, they were so lost that the body of the people, the magistrates and ministers, thought and knew no more of them than if they had been in Switzerland, and really supposed they had abdicated the continent. They were willingly and really ignorant. All the knowledge there was of them was certain, but it was confined and shut up in the endangered bosoms of the few confidants immediately concerned in aiding in their concealment ; and these few were some of the best and most excellent characters in the country, both civilians and ministers. It may be said therefore that the year 1690 found the country and world in total igno-

rance. Two had been now dead for ten or a dozen years, and the other was also then deceased.

2. The second period opened with a certain portion of communication or degree of public discovery, which spread in a general, vague and blind manner through New-England, and has continued much the same to this day, with only this difference, that the means of certain information, as far as the information was actually imparted, continued in being, and could at any time be appealed to, by sufficient numbers to support and establish the public assurance, during that term.— This expired with the death of the Russels. A part of their history was communicated, and part still concealed to the end; and this was done with thoroughly meditated design and counsel. That they had all along lived, and that two of them died in the country, and the places of their concealed abodes, were disclosed and ascertained. But for some reason or other, the flight or death of Goffe, and the graves and places of interment of two of them were concealed, though equally known to the few in the secret. The rest of their history was sufficiently and designedly communicated. I say sufficiently, although with a cautious avoidance of a too particular account of the respective agency of each particular person, and the sources, mode and instruments, through which supplies and comforts were administered to persons attainted and subjected to the *Perduellionis & læsæ Majestatis Pœna*.

It being determined to conceal the graves, it became necessary to frame and adjust a narrative accordingly, adhering to the truth as far as any thing was positively communicated, and leaving the public to their own deductions, inferences and conjectures for the rest, which should be suppressed. Those in the secret were very willing to let the public bewilder and deceive themselves on a matter as to which they had no right to information, on which information might induce danger to the

bones of their deceased friends, if not to some survivors. We may then distinguish the state of the *public* information during this period into what was *certain*, and what was *uncertain*; and again the *secret* knowledge preserved among a few at first equally *certain*, but now *lost*. I have already said that there was public certain information, 1. As to the places of the actual residence of all three. 2. That one died at Hadley, and was buried in Mr. Ruffel's cellar or garden. 3. The Angel story. 4. That the other one disappeared from Hadley soon after the death of the first. 5. The time of Dixwell's death, and the place of his grave.

The information or conjectures which were left vague, undetermined and uncertain, and which were within the certain knowledge of a few during this period, were, 1. The remaining history of Goffe, and the place and time of his death. 2. The removal of the bodies of Goffe and Whalley to New-Haven, if this was fact. These things were once within the certain knowledge of Ruffel, Tillton, Dixwell, Pierpont and Jones. The reasons which induced them to withhold an *éclaircissement* upon these subjects continued to their deaths, and with them all *primary* certain information terminated. In truth there occurred no time during their lives in which the full development of the history of the judges would not have endangered the disturbance of their bones, a thing frequently threatened even down to the present day, and which was probably the ultimate and commanding reason for concealment. So late as the last French war, 1760, some British officers passing through New-Haven, and hearing of Dixwell's grave, visited it, and declared with rancorous and malicious vengeance, that if the British ministry knew it, they would even then cause their bodies to be dug up and vilified. Often have we heard the Crown Officers aspersing and vilifying them; and some so late as 1775 visited and treated the grave with marks of indignity too indecent to be mentioned. It was especially dangerous

in Queen Anne's time, and even during the Hanoverian family, there has been no time in which this grave has not been threatened by numerous sycophantic crown dependants, with indignity and ministerial vengeance. All which will shew that the reason for concealment of the graves of Goffe and Whalley continued to the end of the lives of those who were possessed of primary certain knowledge. In consequence of which all that they left from them to the public, was with "it is said," and "some say," and "some have believed," and "some have supposed"—that one was buried in Mr. Ruffel's cellar or garden; that the other was buried in Mr. Tillton's garden, or went off westward towards New-Haven, Virginia, &c. This was what came from the really knowing ones, when pressed with the question, Where were Goffe and Whalley buried?—They left the public perfectly uncertain; although I believe they left or knew the public to conceive with one general consent that they were both buried privately in some place unknown in Hadley. Nor had the public the least idea of their removal. If Randolph had found out their deaths, which took place in his time, and had been empowered to disturb their graves at Hadley, he might have been pointed to the places in which they had been truly buried, and reaked his malice upon earth then uncharged with such precious relicts.—The Judges were Oliverians, and might have placed an illusion of their enemies, as the Protector is said to have done, by enclosing the decapitated Charles in a coffin inscribed with his own name, in the certain foresight of future indignity.

During this second period, or the period of *certainly*, the few persons of *primary* certain information, might take effectual care to impregnate a select few, with derivative and *secondary* certain information, that it might be securely transmitted to the times of safety. That is Mr. Ruffel of Branford, Governor Jones and Governor Bishop, persons of primary certainty, might confiden-

tially impart it to Major Mansfield, the Alling and Trowbridge families, with whom Governor Leete's family had become connected by marriage, and a few others at New-Haven, to continue the tradition. And if the bodies were in fact removed, these might be thus possessed of a *secondary* certain information of the fact, and of the place of their graves in our burying-yard.— And yet death might have overtaken them before the time of safety for public promulgation. In which case the next generations must be left to fable and the vague and unevincenced traditions of the present day. Thus I have gone through the state of information to 1731, or the death of Mr. Ruffel of Branford.

3. The third period may be that from 1731 to the present day. In the beginning of this period and down to 1748, the death of Samuel Bishop, Esq. aged 82, son of the Governor, there were still means of continuing certain and authoritative information from them who were first concerned. But whether the thing grew into desuetude, or whether they communicated it to persons of unawaked curiosity or heedless inattention, or from whatever cause, the thing is so gone from us, that from a very diligent inquiry at Hadley and New-Haven, I have not found a single person that can say, that whatever knowledge they now have, they received it from any of those ancient persons now dead, whom I know, or have reason to think, to have been possessed of the *secondary* certain information. I have reason to think indeed that such persons of a third descent in derivative evidence have been to be found here till 1775. And I believe about that time the line of authoritative information ceased. None now living can say that they were told by Mr. Samuel Bishop, son of the Governor, or by any other person possessed of *certain* derivative information where Goffe died, or whether the bodies of Whalley and Goffe were removed, or where finally deposited, either at Hadley or New-Haven. As to these things all authoritative information is at an end,

all terminates in immemorial tradition. I mean this with respect to that secreted information which was long preserved and transmitted among a few, but never left authenticated; not with respect to those *certain* facts before stated, as given forth at the first promulgation of the history of the Judges, about 1692; of which authentic documents are preserved in Hutchinson, as well as in unquestionable tradition.

4. There remains however some traditionary notice, which after the failure of the line of certain information, some may have the curiosity to attend to, and expend some little pains in attempting to account for, or perhaps adventure some deductions and inferences from them. I shall therefore represent and state them at large, leaving every one to make their own improvement of them.

I have observed, that though heretofore unknown to me, I have lately found, that there has been an immemorial tradition among some very few persons in New-Haven, that more of the Judges than Dixwell, and that particularly Whalley, lies buried in New-Haven. The most of the inhabitants now living know nothing of it, nor have ever heard of such a surmise. I have conversed with almost all the very aged inhabitants now living, and with above fifty aged 60 and upwards to 90—and have not found above two or three who seem to have ever had the idea. I have conversed with numbers under this age, and have found but five now living who have had this idea; but these have it strongly and immoveably. The first of these was Mr. Isaac Jones; and though a descendant from Governor Jones, he does not pretend to derive it from the Jones but the Pierpont family, which is equally original. This is only as to the E. W. stone as Whalley's, but not a word of Goffe's being here. Two others I can trace to the Mansfield and Alling families, of derivative and secondary certainty. One I trace to a direct and immediate derivation from Samuel Bishop, Esq. son of the Governor,

who was of primary information, and undoubtedly assisted in the removal and interment of Whalley here, if indeed he ever was interred here. The derivation from Mr. Pierpont respects Whalley ; that from Mansfield, Alling and Bishop, asserts that other and all the Judges lie buried together here. But when I asked how they came here, these informants knew nothing of the matter, and not one of them seemed to have turned it in their thoughts ; and particularly upon my assuring them that Whalley certainly died at Hadley, and must have been taken up and removed, they all declare they never heard any thing about such removal, nor could recollect the least surmise of the kind. Mr. Jones is particular and confident as to Whalley being here, but never heard of Goffe being here, nor of any removal. The others never discriminated the names of either Goffe or Whalley, but only that all the other Judges besides Dixwell lay here, as well as Dixwell. Mr. Moses Mansfield, now living, a great-grand-son of Major Moses Mansfield, received information not only in the Mansfield and Alling families, from both of which he is descended, but most particularly from Mr. Job Bishop, son of Samuel, and grand-son of the Governor. Mr. Job Bishop was curious and of retentive memory in these matters, and was full of the anecdotes and memoirs of the Judges, and used even to old age to talk of them, and narrate the stories about them with a very feeling and interesting sensibility. Their fate and history had made a deep and lasting impression upon his mind. He died about 1786, aged 81. Often has Mr. Mansfield sat and heard him tell their history. And among other things, he perfectly remembers that Mr. Bishop used to say that " they all lay buried here with Dixwell." I wished him to reconsider : he did ; and remained certain that Mr. Bishop said, " they all lay buried here." But he never thought how they came here, nor did Mr. Bishop say any thing that he remembers about any removal. Nor did he ever turn it in his

mind, or advert to the circumstance that one at least died at Hadley. This concurs with Mrs. Beers, in a derivation from the Alling and Mansfield families, that the other Judges lay here as well as Dixwell.

Walking the Green in this city one evening lately, I met another person aged 75, who was born and lived many years on the east side of the Green, about twenty-five or thirty rods from these graves; which graves, he said, he always knew from a boy, and that the Judges were buried there. I asked him if all three lay there? he said, no; there were but two there. I asked, if certainly more than Dixwell? Yes, two, I say; there were two, and only two. He was a frank, plain, blunt spoken rustic. Who were they? Dixwell,—and I don't remember the name of the other: but there was another, and there was only two—I can't certainly remember his name—but I think it was one Doctor Whalley. Did you never hear that three lay here?—No, I tell you, there were only two; and go along with me, and I will show you their graves. It was in the dusk of the evening, between eight and nine o'clock, in May, and I omitted it. When was your first knowledge of these stones and graves as the Judges'? I know not—always—from a boy—I don't know when I did not know it—I always knew it—I have known it all my life long. This I consider as evidence that it is not a modern or late surmise, but that it was so rumoured seventy or eighty years ago, when perhaps it was trite among a great number of the inhabitants, and in many families, though now lost in all but two or three; and almost extinct in them.

In connexion with and in addition to this, is the uniform tradition among the grave-diggers, particularly of one family, not that all the Judges, but that one besides Dixwell, lies buried here, and that this one was Whalley, and that the stone E. W. was Whalley's—This is especially to be found in one particular branch

of the family of Tuttle. All the Tuttles in and about this town have derived from Mr. William Tuttle, one of the first planters, and among the more wealthy settlers of New-Haven in 1637. It is in one subsequent branch that this tradition is to be found, that of Caleb and his descendants; as I cannot find it among any of the other descendants of the first William. Mr. Caleb Tuttle was the son of Thomas, son of the original ancestor, William. He was born about 1670, and died about 1750, so very aged, as to have been grown up, and perhaps aged 18 or 20 at Dixwell's death, and so must have personally known him. I formerly knew sundry aged persons here, who knew and were acquainted personally with Dixwell, and with his character from its first promulgation. This Caleb Tuttle was the first of the grave-diggers, or sextons, of this name. From one of the Tuttle family born in New-Haven, 1708, and now living, aged 85, as well as indeed from several other aged persons, I have learned the names of all the grave-diggers here during his life. When he was a boy, Nathaniel Tharp was the first he remembers, who died 1716 very aged, when he himself was aged 8. Since that there have been Dawson, Butler and others, while all along without interruption, to the present day, the principal of the business has been done by Caleb Tuttle and the branch descendant from him.—Caleb began before Tharp's death, and continued to within my memory, and as his sons and grand-sons grew up they took the business down to the present time. The succession in this family has been thus.

Grave-Diggers.

Old Mr. Caleb Tuttle, say from 1710 to 1742.

His son, James Tuttle, from about 1735, to 1770.

Abraham, brother of James, 1760, to 1780.

Richard Tuttle, son of Abraham, 1768 to 1792.

Richard tells me that he received the story of the E. W. stone, as well as Dixwell's stone, from his father and his uncle James, and they from his grand-father,

Caleb ; a plain, good man, whom I well knew, a man of integrity, very intimate with Governor Jones's son, they having married sisters. But whence Caleb got it, Richard knows not. Caleb was acquainted with Governor Jones and Major Mansfield, was born and all his days lived a near neighbor to them both, and to the late Samuel Bishop, Esq. son of the Governor, which Mr. Bishop lived to 1748, when he died aged 82, and must have been aged 23 at Dixwell's death. Thus he was all his life cotemporary with Mr. Bishop, who was perfectly acquainted, partly of himself and partly from his father, with all the anecdotes respecting the judges. Caleb, as I have said, was a son of Mr. Thomas Tuttle, who with Major Mansfield, was an appraiser of Dixwell's estate in 1689.—Thomas I have been told assisted in laying out Mr. Dixwell ; and there is some reason to believe that he was the very person that privately dug Whalley's grave, and assisted at his secret interment here. If so, it is no wonder that his descendants should be charged and strongly impregnated with this family idea and designation of Whalley's grave. Thus Caleb from his father, and by his intimate connexion with Governor Jones's family, Mr. Bishop and Mr. Pierpont, was certainly on the way of secret information sufficient for the purpose of this impregnation, at least that Whalley as well as Dixwell was buried here, and for the designation of their graves. He was a zealous religionist, and warmly captivated and carried away with characters distinguished for holiness and piety : and according to my idea of the man, whom I well remember, he would, I should think, have listened to the anecdotes and history of these pious and heroic sufferers, with avidity and curious and feeling attention. I doubt not he knew more about the subject than all his posterity. And he is the source of the information concerning the Whalley stone.

The original knowing ones, might judge it one of the safest and surest means, besides oral tradition among

a few families, of transmitting and perpetuating the memorial of Whalley, by impregnating the grave-diggers in this line with the information. However they got it, they have immemorially had it, certainly for eighty or ninety years; and have often pointed it out to unbelieving spectators, for few ever believed or realized it to be the grave of the true Whalley. And hundreds doubtless considered it as only a fable: while the grave-diggers have, for no reason indeed which they can adduce, steadily believed it with the most confident assurance. They no more doubt Whalley's than Dixwell's -- they are equally positive as to both.

Mr. Prout might, and doubtless often did, hear it from the grave-diggers: but I do not learn that he ever spake of it as derived from them. Indeed he derived it elsewhere. His age and connexions enabled him to have recourse to much higher, even original authority. He was always in the Dixwell connexion from his youth up; he was personally acquainted with Mr. Pierpont, Mr. Ruffel, Major Mansfield, Mr. Alling and Mr. Bishop, and indeed with Governor Jones himself; and indeed with all those few characters at the beginning of the present century, who were most intimately concerned in this affair. His sister Mansfield, consort of Sheriff Mansfield, son of the Major, was a warm admirer and great venerator of the Judges, and versed in their history. Her daughter, Madam Throope, aged 25, relict of the reverend William Throope, tells me, that once, when a girl, riding with her parents together in a chaise, or calash, they passed by Dixwell's house, her mother desired Mr. Mansfield to stop, and while sitting in the carriage she mourned over and lamented him, as a pious and holy man, and enlarged in his praises and commendation, saying many holy prayers had been made in that house. From her I was ascertained the place of Dixwell's house, which was standing till 1756. Her brother Prout had the same veneration for these good men. And to old age, and even forty years

ago, he used in conversation with me to speak of the affair and history of these Judges, with the most engaged and interested feeling, beyond any man I have ever heard speak of it. He had almost their whole history familiar to him, and was full of it, and delighted to tell it, and to dwell upon it. He never said any thing about their removal. But in his frequent and verbose conversations with the reverend Mr. Chauncey Whittelsey, of this city, upon the subject of the Judges, after mentioning that one died and was buried in Mr. Russel's cellar, he spake with the same caution that the Russels and the other confidential cotemporaries must have been used to speak—"as to the other, it is not known what became of him; some said he went off from Hadley to the westward towards Virginia; some have supposed that he lies buried somewhere in our burying yard." This he said to Mr. Whittelsey and others. I do not find from sundry that have heard Mr. Prout speak of the matter, that he ever spake of more than one of the other Judges being supposed to be buried here besides Dixwell. Indeed though he was personally acquainted with originals, I should not judge that their discretion would have selected him for confidential and plenary secrets, while he was, on account of his social and communicative disposition, a very proper person through whom to transmit, preserve and diffuse important information. He was the gentleman and the christian. He was born in New-Haven November 19, 1689, and died here April 4, 1776, aged 87.

But supposing Whalley buried here, whence came it that tradition fixed upon the stone E. W. for Whalley's monument, with 1653 engraved over it, when the very date must refute it, being two years before the Judges came into this country? This is a question I leave every one to solve for himself: as well as to reconcile it with the archives of New-Haven, in whose obituary no such initials are to be found at that year; as neither are they at 1678, supposing the date to be so read. I

leave it also with every one to account for the dubiousness, to say the least of that figure in both the head and feet stones, if in either it might be ascribed to accident and casualty, How should the casualty happen to both, especially when the other figures are plain? If any should rather ascribe it to intentional and designed artifice for concealment, it might comport with that vigilant, preconcerted and unremitted caution, which has certainly been practised in this whole affair, by the few who were certainly knowing, and even perfectly knowing to the whole affair, and could have put the matter out of all doubt, but designedly, and most industriously, and too efficaciously concealed it, so as even to become totally lost, as never to be investigated, until the resurrection of the just. I leave it further for every one to account in his own way for the uninterrupted tradition of the grave-diggers in the line of the Tuttle family. How should it originate? For that it has subsisted seventy or eighty years at least, and even from the beginning, or immemorially, I consider as proved. Although new to me, I have upon inquiry found with certainty that such a surmise and tradition has all along been to be found here among a few, while the main body of the inhabitants now living, have all along heard nothing of it, or at least never noticed it. Whence could it originate? Had it been said in Hadley that they were buried in this and the other place, we might consider it a conjecture of ignorance: After knowing they died there it was natural to inquire the places of their graves, and in their ignorance there was room and occasion for uncertain conjecture. But when nobody ever thought of their dying at New-Haven, nor of their removal hither, what should have given occasion amidst their ignorance also at New-Haven, to even the surmise, much more to the positively fixing on the very grave? and on account of the date, one of the most improbable graves in the yard?

Till within twenty years past there have been persons of intelligence alive in town who were derivatively possessed of all the Russel information, and could have annulled the E. W. stone. Among the inhabitants of New-Haven were these: Mrs. M'Neil, a daughter of Mr. Russel of Branford, a very sensible woman, and an adept in the history of Goffe and Whalley; which she said she learned from her father; and as to the Judges lying here or not she undoubtedly knew all that her father knew. Samuel Mansfield, A. M. and Samuel Cook, A. M. who married Sheriff Mansfield's sister, were full of the family information. Mr. Cook had not only the Mansfield information, but that of his father, the reverend Samuel Cook, of Stratfield, who had lived many years in New-Haven the beginning of this century; was an intimate acquaintance and connexion of Judge Dixwell's son, Mr. Pierpont and Mr. Russel, and ardently interested in the fate of the Judges. These, besides other branches of the Mansfield and Alling families, who were perfectly acquainted with Mr. Russel, survived to within these fifteen or twenty years. In this circle the history of the Judges was frequently conversed upon. And among them all, there must have been knowledge enough to have refuted the mistake. It is, I find, certain that they knew this E. W. stone was spoken of by some as Whalley's, and none ever heard them contradict it. They certainly entertained and suffered this idea at times to pass from them, that other Judges besides Dixwell lay buried here. I was formerly acquainted with all these persons, and have often heard the most of them with great engagedness converse on the fate and anecdotes of these Judges; and I doubt not, if they were living, they could throw sufficient light upon the subject. But their knowledge is buried with them. They were the last, and there remain no more present means of satisfactory information. I have been told much that these and other ancient persons have said and narrated about the Judges.

I have been told that Sheriff Mansfield, a very respectable character, in the year 1774 shewed a member of Congress, of another state, Dixwell's stone, at the same time shewed him the E. W. stone, and assured him that this was Whalley's; so that this gentleman to this day remains equally impressed with the equal certainty of both, the one as well as the other. And Sheriff Mansfield knew it, if Mr. Ruffel of Branford knew it.

Still therefore pursuing the supposition that Whalley lies buried here, though by no means considering it as a thing that can ever be proved: it must follow that, after his undoubted sepulture at Hadley, he was taken up and secretly removed to New-Haven. But, as I said, I can find no tradition at New-Haven or Hadley of such a removal. In this place I think proper to insert a letter which I received from the reverend Samuel Hopkins, minister of Hadley, in answer to my letter of inquiry upon the subject of the Judges.

Hadley, March 26, 1793.

“Reverend Sir,

“Since I received yours of 7th ult. I have taken pains to enquire of the oldest people among us, what they heard said, by the eldest persons in town since their remembrance, respecting Whalley and Goffe, their residence in this town. The tradition among all of them is, that both of them were secreted in the town; that the inhabitants at that time knew very little of them, or where they were concealed, except those in whose houses they were. And the tradition among them in general is, that one of them died in this town (those who remember which, say Whalley)—that the other, Goffe, after the death of Whalley, left the town, and that it was not known where he went. With respect to the one who died in this town, the tradition in general is, that he was buried in Mr. Tillton's cellar.

“Most of whom I have enquired for tradition say, that while they were here the Indians made an assault upon

the town : that on this occasion a person unknown appeared, animating and leading on the inhabitants against the enemy, and exciting them by his activity and ardour ; that when the Indians were repulsed, the stranger disappeared—was gone—none ever knew where, or who he was. The above is the general tradition among us.

“ I shall now notice some things which were in the tradition, as given by some, differing from the above, or adding somewhat to it.

“ According to the tradition given by some, Whalley and Goffe were not concealed the whole of the time at Mr. Russell's and Mr. Tilton's, but part of the time at one Smith's. This I find in the family of the Smiths.

“ An old man among us says, he remembers to have heard the old people say, there was a fruitless search (by order of the government, as I understand it) of all the houses in Hadley ; but that they (to use his words) searched as if they searched not. That after Whalley's death, Goffe went off, first to Hartford, afterwards to New-Haven, where he was suspected and in danger of being known, by his extraordinary dexterity with the sword ; shewn (as he tells the story) on a particular occasion. And in apprehension of danger, he went off from New-Haven. Here tradition, according to him, ends with respect to Goffe.

“ Another still older says, that he heard both his father and his grand-father say, that Whalley and Goffe were both secreted at Mr. Russell's at first ; who for their security, in case of search, made a retreat for them between his chambers, and behind his chimney.—That one of them died at Mr. Tilton's, and was buried behind his barn. That after his death Goffe went off into the Narragansett ; was there set upon, and in danger of being taken ; went from thence to the southward ; was heard of as far as Pennsylvania, or Virginia, and nothing heard further of him.

“The tradition among some, connected with the family of the Marshes, is, that Whalley and Goffe both died in Hadley.

“Not many years after my settlement in Hadley (1754) one, who was then quite an old man, told me, among other things, that the tradition of the one that died in town was, that he was buried in Mr. Tillton's garden, or in his cellar. With respect to the place of his burial, I am of opinion, that it was kept secret, and was unknown. It seems to have been a matter of conjecture among the inhabitants ;—in Tillton's cellar,—in his garden—or behind his barn—as they imagined most probable. Of his being buried under a fence between two lots, I do not find any thing ;—nor of his being afterwards removed. I have searched for his monument, and do not as yet by any means find the time of Tillton's death. Should I hereafter, I will inform you.

“SAMUEL HOPKINS.”

I was at Hadley May 21, 1792, making inquiries only for gratifying my own curiosity, and without a thought of compiling this history. The reverend Mr. Hopkins carried me to Mr. Ruifel's house, still standing. It is a double house, two stories and a kitchen. Although repaired with additions, yet the chamber of the Judges remains obviously in its original state unmutated, as when these exiled Worthies inhabited it. Adjoining to it behind, or at the north end of the large chimney, was a closet, in the floor of which I saw still remaining the trap door, through which they let themselves down into an under closet, and so thence descended into the cellar for concealment, in case of search or surprise. I examined all those places with attention, and with heart-felt sympathetic veneration for the memories of those long immured sufferers, thus shut up and secluded from the world for the tedious space of fourteen or sixteen years, in this voluntary Babilon.—

They must have been known to the family and domestics; and must have been frequently exposed to accidental discoveries, with all their care and circumspection to live in stillness. That the whole should have been effectually concealed in the breasts of the knowing ones, is a scene of secrecy truly astonishing!

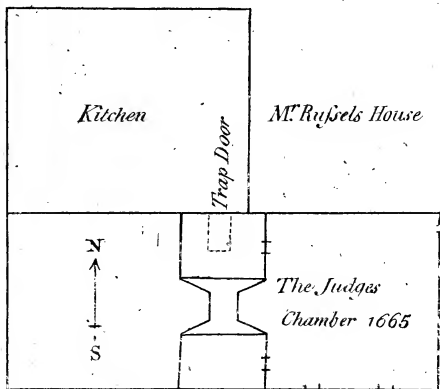
Mr. Hopkins and others gave me the same account as in the preceding letter. He shewed me the place where the old meeting house stood, 1675, at the Indian invasion, about eighty rods north of Mr. Russel's house. I viewed also the position of Mr. Tilton's house, still standing, about a quarter of a mile below Mr. Russel's.†

On my return from Hadley, passing through Wethersfield, on the 25th of May, I visited Mrs. Porter, a sensible and judicious woman, aged 77, in full possession of good mental powers, and particularly of memory. She was a daughter of Mr. Ebenezer Marsh, and born at Hadley 1715, next door to Mr. Tilton's, one of the temporary and interchanged residences of the Judges. This house was in her day occupied by deacon Eastman. She had the general story of the Judges, but said she knew nothing with certainty concerning them, but only that it was said they sometimes lived at Mr. Russel's, and sometimes where deacon Eastman lived. There were many flying stories, she said, but so uncertain that nothing could be depended on—as among others, that one was buried in Mr. Russel's cellar, and another in Mr. Tilton's lot, in the dividing fence between Tilton's lot and her father's. Her father died 1772, aged 85, and so born in Hadley 1686, at his father Daniel Marsh's, a few rods n. w. from Tilton's; and always lived, as did his father, in that neighborhood. As she said she had nothing certain, I pressed her for fabulous anecdotes. She said she was ashamed to tell young people's whims and notions, which had nothing in them. But in the course of con-

† See Plate IV.

versation she said, that when she was a girl, it was the constant belief among the neighbors, that an old man, for some reason or other, had been buried in the fence between deacon Eastman's and her father's ; and that the reason why they buried him in the line of the fence was, that the possessors or owners of both lots might each be able to say, he was not buried in his lot ; but why he should be buried in the lot at all, and not in the public burying-place, she had never heard any reason or tradition. She said the women and girls from their house and deacon Eastman's used to meet at the dividing fence, and while chatting and talking together for amusement, one and another at times would say, with a sort of skittish fear and laughing, "who knows but that we are now standing on the old man's grave ?" She and other girls used to be skittish and fearful, even in walking the street, when they came against the place of that supposed grave ; though it was never known whereabouts in that line of fence it lay. She herself imagined it lay a little beyond the barn, eight or ten rods east from the great street that runs through Hadley, and perhaps eight or ten rods from her father's house. But she supposed the whole was only young folks' foolish notions ; for some were much concerned lest the old man's ghost should appear at or about that grave. But this lady was very reluctant at narrating these circumstances and stories, to which she gave no heed herself, and which she considered as trifling and unimportant.

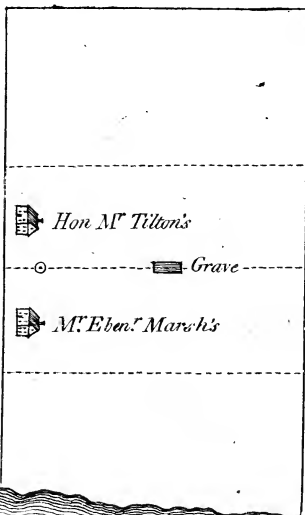
In repeatedly visiting Hadley for many years past, and in conversation with persons born and brought up in Hadley, but settled elsewhere, I have often perceived a concurrent tradition that both died there, and were buried somewhere in Hadley unknown, though generally agreeing that one was buried at Russel's. And two persons born in Hadley tell me that, many years ago, they were possessed of the idea and surmise, or of a little glimmering of uncertain tradition, but how they



HADLEY



Rev^d John Rufsels



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came by it they knew not, that though buried there, they were afterward secretly taken up and removed, they knew not where. This is the only surmise of the kind that I ever came across: and the informers desired me not to rely upon it; as upon my requesting their recollection, they said, it was so faint and transient an idea, that they felt at a loss, and could by no means be confident. Yet they insisted, that a faint idea or impression of such a report and surmise, imbibed in youth at Hadley, still remained on their minds.

One person in New-Haven, aged 70, is certain of having immemorably heard that one of these good men, besides Dixwell, lies buried here; and has the floating idea that this person was Goffe. Upon my asking if it was not Whalley? it was replied, No, but Goffe.— Upon asking whether he died here? it was replied, that he did not die here, but after living at a distance up the country secreted a long time, he came on a visit to Dixwell, and wandered about and lived in secret places round about New-Haven, and died somewhere not far from New-Haven, and was secretly buried here. This was the floating idea, but of no certainty as to either the facts or derivation of information. This however seemed certain and without a doubt, that another besides Dixwell lay here; a little at a loss about the name, but seemed to adhere to Goffe, never heard of its being Whalley, nor of Whalley's stone, or if it had been heard of, it was forgotten and lost. And yet this person has through life lived in the atmosphere of good traditionary and fabulous intelligence concerning the Judges, with however but slight and transient impression, or with impressions now much confused and lost.

Possibly upon General Goffe's danger increasing after Whalley's death, he and his friends at Hadley might plan an illusion, for a foundation of saying truly, that after Whalley's death, Goffe went off to the westward towards Virginia. So Goffe might leave Hadley, visit

Dixwell, wander about secretly and lose himself for a time in some of his old recesses round about New-Haven, and perhaps then concert with his friend Dixwell the removal of Whalley's corpse out of the reach and investigation of Randolph. During which time it might be truly said, "that after Whalley's death, the other went off to the westward towards Virginia, and that it was not known where he was, nor what became of him." When however he might, after a short excursion, return to Hadley, be there soon overtaken by death, and be buried first at the old man's grave, near Tilton's, and be afterwards with Whalley taken up and removed to New-Haven. This is but conjectural, and left in uncertainty; though it would have been good Oliverian generalship. The story of one going off to the westward, after the other's death at Hadley, is spread all over New-England, and is as trite at Rhode-Island, at this day, as at New-Haven and Hadley.

I think some use may be made of all these sparse, and-unconnected traditionary lights, all perhaps alluding to truth, if rightly understood, towards supporting the conclusion of Governor Hutchinson, that both the Judges died at Hadley.

1. That Whalley died at Hadley, I consider as evidenced fully by Goffe's letters; that he was buried in Ruffel's cellar, or under his hearth, or in his garden, or about his house, is evidenced by almost universal tradition, by the uniform information in the Ruffel family, and the tradition which can be traced to them. Mrs. Otis and Mrs. McNeil constantly affirmed this. If so, it was not Whalley that was buried at Tilton's.—Mr. Hopkins's recent inquiry, indeed, makes the one that died at Hadley to have been buried at Tilton's. But last spring, and heretofore, both Mr. Hopkins and others at Hadley, have told me, what I had always received before, that the first was buried at Mr. Ruffel's, although the traditionary idea at Hadley at this day may fix it at Tilton's. This however I would consider as

verifying the idea that there was indeed a burial at Tillton's. And as I have no doubt but that one was buried at Ruffel's, this would conclude in both dying and being buried in Hadley. And this I believe was really the truth. It is to be observed, that the universal tradition at Boston, Barnstable and New-Haven, has been, that one of the Judges died at Mr. Ruffel's, and was buried in his cellar, or under his hearth. We know from Goffe's letter that this was Whalley.

2. That another Judge, besides Whalley, died at Hadley, and was buried at Tillton's. There is a tradition, with some variation, that one was buried in his garden, behind his barn, in the line of dividend fence : all conspiring to render it probable that one was buried there. And if Whalley was buried at Ruffel's, this must have been Goffe. And so both died and were buried at Hadley, agreeable to Governor Hutchinson, which he perhaps received from the Leveret family, who were in the secrets of the Judges. The leaving the manuscripts at Hadley in the Ruffel family, indicates both the Judges dying there, and finishing their days at Hadley, say about 1680, for we hear and trace nothing of them after this time, only that soon after the death of Whalley, the other went off to the westward towards Virginia, and was no more heard of.— This might be true if he died at Tillton's, and by his friend Dixwell and others conveyed to New-Haven, which was westward towards Virginia : which might have been done to elude the searches of Randolph, who would doubtless have procured the execution of vengeance upon the relicts and graves of the persons, could they have been found. If both died at Hadley, and Whalley was removed, will any one doubt that Goffe, if buried at Hadley, was removed also ? And thus, though in an oblivion, into which there remains now no traceable light, all the three Judges may lie deposited together in the burying-yard at New-Haven. I

know these are strong and perhaps unsupported deductions, but in reference to such a conclusion, whether decisive or not, these disconnected and seemingly fabulous accounts and surmises, however trifling, may seem to be not altogether inapposite.

I have indulged myself in an enlargement on this inquiry, not so much for ascertaining the unsupported conclusion that Whalley lies buried in New-Haven, as for bringing together and exhibiting in one view these fabulous narratives, and statement of circumstances, with their inductive connexions; that so whoever may cursorily and transiently hear of them at any time, may be satisfied that he is possessed of all the scattered information possible to be obtained, and judge for himself how much or how little weight and confidence may be given to them; and also for giving opportunity to others to pursue and trace these lights in different parts of the country, together with any other circumstances, which may verify or perfect these accounts, and contribute to any further elucidation of the pilgrimages and history of these Judges. On the whole, I consider it by no means certain, yet rather probable that they all three lie buried in New-Haven. Of this, however, every one will form his own judgment, having before him, I believe, all the light and information, that can ever be possibly obtained on the subject.

C H A P. V.

Justification of the Judges, with reflections on the English Polity and government.

CONNECTED with the history of the Judges, will be an inquiry, immediately arising in every mind, whether the High Court of Justice, which passed sentence upon the King, is to be justified or condemned? And this question has been, and still will be determined by each one for himself, very much according to each one's decision and judgement upon the previous question, Whether a sovereign is amenable to the community which he governs? To those who are fixt and decided in the despotic principles, that Kings can do no wrong, that no tribunal can be authoritatively erected but by the King, who can never be supposed to consent to the erecting one for the trial of himself; and who of consequence believe and hold for law that no King can or ought to be tried at any earthly tribunal; and who finally hold that a King, however guilty of the *crimen Traditionis Reipublicæ*, cannot be justly punished by death;—To such I have nothing to say. Among those who have previously settled in their minds the responsibility of Kings to their subjects, some condemn this particular transaction in the case of Charles I. It is not to convince or make converts of any of these that I write. But that body of whigs in England, and their American offspring and descendants, who for a century and half have approved the act, and the Parliamentary war, have a right to adduce their reasons.—This body is increasing in the nation, and their principles are spreading in the world. Europe has another and the last conflict to sustain, in the present war of Kings; and it will be a vigorous, severe and bloody one. The English nation are so enlightened, so tenacious and understanding of their rights, so enthusiastically impregnated with the inextinguishable love of civil

liberty, that they will never submit, they will never despair. The conviction is already publicly established of the impossibility of the coexistence and cohabitation of their rights and liberty with the permanency of an hereditary aristocracy and sovereignty, and that the perpetuity of the one must be attended with the ultimate downfall and extirpation of the other. In the conflict of the patricians and plebeians at Rome, the former yielded and saved themselves. But the confidence and tenacious firmness, even to blinded obstinacy, of the present hereditary aristocracies through Europe, and in England among the other powers, will never give way. They expect to stand, but they will assuredly fall. The pontiff and conclave at the Reformation had no doubt but that they should insidiously compass and effect a reunion and refubjugation of the Protestants: but two centuries and a half have elapsed without any other effect than a conviction now generated and diffused through Europe, and the Court of Rome itself, that the Hierarchy is ruined, and the Pontificate is no more. The ethnical worship was ages in dying, nor did the Gentile priesthood, nor the civil powers of the three first centuries, believe that their opulent and pompous idolatry was fatally struck with a death wound in the apostolic age, and yet it fell, not by arms, but before the convictions of christianity in the fifth and succeeding centuries. When established systems arrive at a certain height of corruption, they become incurable, the experience of all ages shews that they cannot be reformed, and their fall and extirpation become inevitable, in the natural course of events. In England, that delusory shadow of liberty, the semblance of a Parliament, once a wise institution, is so effectually subdued to the irresistible influence of the Crown, and the omnipotence of a Prime Minister, who constantly assigns to one of the privy council the business of managing the Commons, that is corrupting and securing a venal majority at his will and dictature, that, supported by an heredi-

tary aristocracy always at the will of the Crown, government bids defiance to every exertion for liberty, and completely modifies and renders the dominion independent of the nation, who seem to enjoy some liberty because they elect their representatives to be sent to market for certain corruption to betray their rights and immunities. This every man in the nation believes, and more, he knows it. This new modification of power and crown dominion commenced at the happy revolution. It was a court device, after it was found and established that a King could not rule England without a Parliament. But it as effectually subjugates a nation to the will of one, as did the former mode of exercising royalty under the Tudors and Stuarts. Now this cannot be broken up but by the dissolution of monarchy and hereditary aristocracy or nobility. They see this, will never yield, but will risque the most arbitrary and despotic exertions of power for their support. This has all along been seen by many, and yet scarcely believed and realized by the nation at large to this day. However, the conviction is now growing and establishing, and the ministry are undesignedly accelerating and precipitating the crisis of an universal conviction. The crisis is near at hand, and it must be a bloody one. The present modified government can never recede. It cannot rectify itself: it has neither authority nor will to do this. It cannot be done but by the nation at large, it having become now known to be absurd for a legislature, which stands, or ought to stand, on a constitution, to make its own constitution. And administration dare not risque the calling a national convention, to amend the Commons' House, least under the idea of redressing grievances and rectifying acknowledged defects, they should endanger the subversion and overthrow of the whole present polity. The present system of polity therefore must stand and remain, unamended, corrupt and despotic as it is. There is left to the nation then no alternative between quiet and tame submission to the

present unquestionable despotism, and a recourse to the old principles of 1641, the principles of Hampden and Sidney ; principles which pursued and acted out to their full operation, would terminate in the justification of the Judges. These principles will rise into energetic operation, and a burst of the public spirit will sooner or later effect the downfall of aristocracy and monarchy ; and out of these ruins will arise an elective republic.— In order to this, recourse will be had, as I have said, to acknowledged principles of law and justice, and to the extraordinary precedents in the English history ; and among the rest to this of the Judges. The main body of the whigs now lately annexing themselves to a motly ministry and parliament, and through an unhappy mistake deserting the cause of liberty for a season, will after finding themselves duped, like their brethren at the revolution, resume the principles which they set up at the Restoration. They will resume them not partially, but wholly, and go all the lengths of their operation and consequences, as they have been all along avowed in the English nation and constitution, though overwhelmed, smothered and subdued in their operation, and even nullified by court artifice, intrigue and venality. This hoodwinked policy being overthrown, every Englishman will ever afterwards know and feel that despotism no longer, but that law and liberty is his birth-right. The events in France have effected such a change in the public spirit in England, that the Episcopal whigs have deserted the cause, joined the ministry to the wishes of toryism, now as vigorous as ever in the nation, and left the Dissenters to inherit and sustain the opprobrium of civil liberty, under the pretext and imputation of anarchy and the principles of rebellion. The penal laws of Queen Elizabeth yet hang over them, but I believe the ministry, however they may threaten, will hardly have the temerity to go so far as to enforce them, an enforcement, however, which I doubt not they would sustain with the exemplary and christian

fortitude of their ancestors. But in every other respect the Dissenters have now to become the scape-goat of civil as well as religious liberty. And they will endure till the eyes of the whigs are again opened to perceive that they a third time have been unhappily deceived and deluded to sacrifice a cause they by no means intended to surrender. But finding themselves caught and ensnared, they will turn about, resume their old principles, and act with united energy in regenerating a public polity, in which liberty and the rights of citizenship shall be effectually secured. In the mean time, through every storm, a succession will survive of those who will steadily approve, and advocate the justice of the war of 1641, and the sentence upon Charles I. not from the principles of rebellion, with which they are aspersed and villified by the present English Mountain, but from uncorrupted, enlightened and sober judgment. And as in the darkest times they have uniformly persisted in the avowal of their principles, though with an unavailing effect under overpowering corruption, or overpowering mistake of their fellow citizens; so in this age of liberty, and in the present stage and progress of the prevalence of truth, they ever stand ready to state the reasons, which to them now, and perhaps in time may to the world extensively appear sufficient to legitimate the tribunal which arraigned Charles I. and not only to exculpate, but intirely to justify the Judges.

Nor are they destitute of supports by precedents.— Says a modern writer—"We read in Rapin how Edward II. when conquered and made prisoner by his wife, was tried by the Parliament, which decreed that he had done all possible wrongs, and thereby forfeited his right to the crown. The Parliament tried and convicted Richard III. Thirty-one articles of impeachment were alledged against him. The Parliament deposed Henry VI. declared Edward IV. a traitor, confiscated his effects, and afterwards restored him in his

prosperity. In regard to Richard III. he certainly had committed more wrongs than all his predecessors. He was another Nero, but a politic, courageous Nero ; and hence the prudent Parliament did not declare the wrongs which he had done until after his death.

“ In later times the Representatives of the English nation brought to trial and condemned Charles I. to lose his head on the block—declared James II to have done the greatest wrongs, and in consequence dethroned him.” All this has been done, though by the concurrence of both houses of Parliament, except in the last instance, yet by tribunals not erected by the King.

A few instances in ancient ages, multiplied in the two or three last centuries, of Parliamentary controul on Kings, and of transferring the hereditary succession of princes to other family branches, has at length established a principle in the English government, that a concurrence of parliament is necessary to ratify the hereditary succession—which may set it aside ; and even proceed to the punishment of criminal Majesty, as well as criminal nobles : while the same principle pursued might lead to elections in all cases, both of princes and nobles, in the room of those who violate the obligations of the hereditary character. And even the hereditary idea itself may be set aside and abolished, when all the reasons for hereditary dominion shall at length, in the public conviction appear to be futile and mistaken, as being in fact founded in a subserviency to the aggrandisement of particular families, and oppression of the community, rather than in the public weal. But it requires a tract of ages for the truth to struggle into public reception and prevalence : and many sacrifices lie in the road to the triumphs of truth,† While some changes are sudden and rapid, others require a longer time, both to prepare the public mind, and to combine and draw forth the exertions of those popular powers in states,
† Wickliff, Savanarola, Huss, Jerome, Whalley, Goffe.

necessary towards establishing some great principles of public right and utility. When the last at length takes place, it excites a new retrospective idea upon the former exertions and characters, few and rare at first, and overwhelmed by prevailing powers not yet broken up. Witness the public sense on Wickliff, Huss, and Jerome of Prague. The subserviency of these rare though spirited examples of sacrifices, preparatory to the bringing on of the ultimate happy crisis, will then be seen and admired. An evil may be opposed for ages, and many fall in the conflict and opposition, without success ; but a continued series of vigorous exertions may at length bring on a united and vigorous burst of the public spirit, terminating in the ultimate salvation of the public.

To return to the survey of the last century. The main body of the nation, wearied out by the struggles with tyranny, and being by the time of the revolution 1688, glad to recover so much true liberty, or seeming liberty, as they did under the houses of Orange and Hanover, rather chose to leave these uncomfortable matters to go into oblivion ; and having thus far secured their liberty and rights, have ever since silently permitted a court faction and crown interest, mixt with descendants of hereditary despotic cavaliers, the Filmers and vociferous advocates for high government and arbitrary power, to cast an odium and aspersions on the adjudication of Charles, and on the period of the Protectorate. In consequence of which the two or three last generations have grown up even under the house of Hanover, rather impressed with a doubt of the perfect legality of those transactions ; and in a sort of submissive and unconvinced acquiescence, that they were not altogether nor radically justifiable : even so as to produce a present generation, who either generally disapprove and repudiate, or reluctantly speak of a transaction, which they rather think should be condemned. The national and annual aspersions of the Temple upon

this period, have contributed to this silent, tame, and half convinced acquiescence, even of the real and firm and uncorrupted friends of civil liberty. But aside from the compromise and acquiescence of political parties, and their union in a supposed well controuled and limited monarchy, let it be fairly inquired, whether those principles, which the united body of the whigs in the nation, both those who approve and those who disapprove this act, have to this day uniformly avowed, and have never given up, and never will give up, will not involve the vindication and justification of the Judges? They performed a great work, a dangerous work, a work and enterprize in which they perished: was it a work of righteousness, or unjustifiable rebellion?

It is necessary to look into the defects and perfection of the English constitution towards making a judgment on these matters. Let us suppose the practical, though not written constitution of England, of a government by King, Lords, and Commons, to be excellent: and liberty to be secure while the three branches acted separately, and truly independently, and uninfluenced by one another, by any thing but the public weal. But let an undue influence of one over the other be introduced, and prevail to any considerable height, freedom of disquisition, and freedom of acting, are at an end, and the constitution violated. This was done by Charles I. acting independent of both houses, and for twelve years without either house. England thought this was remedied at the revolution by an establishment that the King should not rule, but with the concurrence of the two houses. By the bill of rights they thought their rights and liberties were safe. They were so, while the houses were really independent. But corruption has found a way, from one of the acknowledged and conceded prerogatives of the Crown, the appointment of all officers through the realm, and the crown appropriation of revenues granted to the King's disposal for their support for secret services and for pensions, to originate a new

mode of influence, effectually subduing both houses to the King's will. It was not thought at the revolution, that this could have arisen to the present enormous and pernicious height. But so open is this transaction now, that it is become the direct object and business of one of the King's privy council, by the distribution of offices in the revenue, the army and civil departments, and by pensions, to manage, that is secure a majority in the house of Commons: the same for the Lords; so that both are securely held at the King's pleasure: tho' by the good providence of God, it has happened, that the succession of sovereigns since the revolution has been well affectioned to their subjects, and disposed to rule with wisdom, justice, and clemency. A clemency and facility however, which has permitted a Bute, a Hillsborough, a North, and even a Pitt to plunge the nation into the most unwise, sanguinary and despotic projects, which can bring odium and dishonor on regal government. Thus the excellent government and constitution of England, is by the avidity and folly of ministers under a lenient but yielding crown, again changed into indeed a new modelled but efficacious and real tyranny: a tyranny which will not be long endured, but as assuredly hastens an awful crisis as did the despotism of Charles I. It must and will be rectified.

This evil might be rectified, but it will not be, by the *official* power being shared, for the appointment of the principal officers and pensionaries of all descriptions, between the Crown and the two Houses of Parliament, instead of a council of ministers of the King's sole appointment. And with this rectification the government of England would be excellent, even with the retention and continuance of the two other great defects of the constitution, an hereditary and useless aristocracy, and an unequal representation in the commons: both of which ought to be, and will be, by a future spontaneous national convention, rectified in a reform and a melioration of the constitution to an elective and per-

fect polity. Hereditation of dominion in Nobles and Princes is the first step to despotism. This ruined the republic of Venice. This modified and converted the feudal system into a complex tyranny. This was gradually and but partially introduced into England.—“Earl, *comes*, was not originally hereditary, nor a degree of dignity, but of office and judicature. They sat and judged with the Bishop. At length grew into government, but not hereditary. There was not at the entry of the Saxons a feudel and hereditary earldom in all Christendom.” Even in Alfred’s time A. D. 900, not yet hereditary in England, but supplied by appointments as officers in the army, or Judges of Courts.—See Spelman’s Feuds and Tenures c. vi. p. 13. The same appears in Montesquieu and Vattel. Their recovery back to their original officary institution, would be a radical relief to the English constitution. The English constitution is not incurable, it contains principles which if suffered to operate and to be acted out would cure itself; but this operation will be obstructed, and it never will be cured. There is no alternative but its demolition.

After a vigorous and successful struggle with the Stuart family, a partial rescue of liberty has been obtained; and it has been settled ever since the glorious revolution that Kings shall not rule without law, nor without parliament. The sovereigns of the houses of Orange and Hanover having learned wisdom by the example of the preceeding house of Stuart, have given up the contest; and the old principles, the old energetic spirit, are in some degree gone to sleep and become dormant. Nor need they be awaked and called forth into energetic operation, but upon pressing and great occasions; while a general vigilance will be ever necessary and sufficient for the ordinary conservation of liberty. But whenever these great occasions offer, and one already begins to shew itself and will not be baffled, these principles will be recurred to, and this national spirit reawakened.—

In the mean time, as in the present period, three quarters of the nation suffer the other quarter to talk and write licentiously, and to broach despotic and dangerous political doctrines with impunity, which the nation will never suffer to be realized and carried into practice, and which they know they have power to controul. The semblance of a parliament has hitherto produced a national acquiescence. But it will at length be found that a king ruling parliament, or more truly the King being a cypher, and a minister one of his subjects ruling parliament and his fellow subjects with the desultory despotic and wild politics of the late ministers, who have foolishly lost the King one third of his realm, and have plunged the kingdom into unmeaning wars, enormous, and oppressive augmentations of the national debt ; I say, at length it will be found that a King ruling parliament, and a King ruling without parliament, are one and the same thing. And let the experiment be tried by any future King, that King Charles tried, and assuredly it will not fail to wake up the spirit of 1641, and would as assuredly go the lengths of 1649, if tyranny could not be otherwise suppressed. Nothing but the certainty of its going these lengths, secures England from the open unmodified despotism of monarchy. But English Kings know where the matter would end, and so their temerity is repressed, and they are happily controuled. I appeal to all acquainted with the spirit of Englishmen from Alfred, and even from Cæsar to this day ; I appeal to half the tories themselves, for toryism remains as vigorous in this as the last century : I appeal to the united and collective body of the whigs, as well those who disapprove or approve of it—whether they have the least doubt of such an issue in such a conflict, and on the supposed experiment repeated on the nation ? Such an experiment would not fail to bring the nation, though now quiescent, to an explicit avowal and resumption of their old and never discarded principles—principles, on which may be established the justification

of the Judges of Charles I. both as to the legality of the court, and the justice of their sentence. Let such a conflict and struggle, through the folly of princes, be repeated a second and a third time, in distant centuries, and the point would at length be settled as effectually, as the demand of the commons kept up for ages, has at length now for a long time settled and finished the question of the equity and justice, of their privilege, and right to their place, power and importance in parliament.

How long was it contested that the consuls should be selected from the patrician order only, until at length this honor was by the immortal Cicero opened to the plebeians and became no more controverted? Other mutations of power have required long and distant periods. How long after the efficacious settlement of the Saxons in England before the coalescence of the Saxon Heptarchy under Alfred? How long before the admission of the commons as a distinct order into the Wittena gemot? How long before the Norman parliament succeeded the legislature instituted by Alfred? How long before the immemorial principle of the Saxon government, that no property should be taxed without the consent of its Lord or owner, could be gotten to be extended to the commons after that great property had shifted into Plebeian possession? The same observation holds respecting the mutations in law and policy, many of which have required ages for their establishment, as is manifest in the effect which the act of parliament had *de donis conditionalibus*. It has taken ages to educe and settle some points and principles of national justice, which at length cease to be controverted, are now acquiesced in by all, and are become firmly established principles in the public polity, though for a time condemned and reprobated. And with how much difficulty have many long established principles of jurisprudence as well as polity had to struggle, and while many have been lost in Norman and other infractions; with how severe and long a conflict have some survived, and after living through many at-

tacks and storms, at length gained a fixt establishment? Grotius, Puffendorf, and Montesquieu, and Vattel, inform us of a number of these in various parts of Europe: and Spelman, Selden and Blackstone, with the writers on the Feudal Tenures, inform us the same thing for England. The taxation of foreign nations is to this day without consent of subject: a vigorous struggle for ages has deforced this power from the crown in England: but was it possible, there remains enough in the present aristocracy to resume it. The impossibility is the only security. What struggles have juries had with arbitrary power and crown law, once primeval and almost universal in Europe, now for ages abolished every where except in England and Sweden: but in England and the United States too firmly established ever again to be overthrown, and probably may be resumed through Europe. Absolute monarchs formerly seized and imprisoned subjects at pleasure. How long time did it take in England to deforce the concession from Kings, that no man should be arrested and imprisoned at the will of the Prince, nor be arrested but by law? How long to establish the habeas corpus act and the bill of rights? Even now that these principles are established into law, we still daily see the operative influence of crown and ministerial efforts to evade, elude and defeat these laws. So many pillar principles however of public right and justice are at length become established in England by the bill of rights, that any great attack, any direct effort for their subversion would cost an English sovereign the price not of his crown only, but of his life. Thus also the right of subjects to judge their King will at length be universally acknowledged or not suffered to be disputed, after the present war of Kings shall have had its full course and termination, and a few more royal Tyrants have had their deserts. In such an exigence however unprovided with a regular tribunal, either by prescription and usage or constitution, the English nation would find a way to originate,

institute, authorise and legitimate a tribunal which would dare to judge and execute justice on so great an occasion. Every such transaction would insure to the justification of Charles's Judges. The nation, or the spirit of the nation did it in the instance of Charles I. and they will ever repeat it and do it again in every similar emergency. They will not only assuredly do it, but will be more convinced that herein they should do right, as the United States are that they did right in the declaration of independency. Liberty has endured too successful a struggle with tyranny, and too firmly fixt the pillar principles of the constitution in England, ever to permit again their submission and subjugation to the tyranny of the houses of Stuart or Tudor, or to the haughty despotism of any other reigning family or line of Princes.

But it is said in the given case of Charles now before us, that the majority of parliament in 1647 were ready to enter into a pacification with the King. It is true: and they certainly had a right, that is authority to do this; but they might have made a mistaken use of this power, and Oliver might have seen this mistake. Had they seen it as he and some other patriots did they would not have listened to the King's delusory proposals, which he certainly never intended to fulfil. The question is, what was in reality safe and for the public good at that time: not what was deemed to be so, for the wisest legislators or councils may be undesignedly and honestly mistaken. Now to investigate this, let us suppose that providence had continued the lives of all the members of the long parliament, and that the same members had always been chosen till 1688, and seen and acceded to the reconciliation of the King and the accessions of Charles II. and James II. and that Charles I. would have ruled, as all have no doubt he would have ruled, had he been conciliated. Now would they not have found themselves to have been deceived? Would they not have acquired a conviction that they had erred, or

were going to err, in 1647, in voting that the King's terms were a proper foundation for a treaty which was safe to the liberties of the nation? I think it may be left with the most prejudiced advocates for Charles to judge what would have been the opinion of the parliament both lords and commons, in consequence of forty years experience of Stuart infidelity and intractability. They would at once say that they were unwise to have receded from their first voting for the abolition of Kings, that Oliver's judgment was right, that there was no safety in trusting the King, and therefore he ought to have been discarded as James II. was: that is, that the judgment of the despised parliament was wise and just. And if so, they would be at no difficulty in judging that the acts of this parliament and of the judges which acted under their authority were right. Especially as the vote of the parliament about to be put, precipitated and necessitated the King's destruction, who otherwise perhaps might have been permitted to abdicate and escape. But this alternative would have been cut off by a vote for negotiating with him. All are now convinced that had the nation then pardoned the tyrant, the tyranny would have been re-established. Why was it not time then, and why not just to cut him off?

In all sovereignties judiciary tribunals have been immemorially provided for the trial of criminal subjects, from the lowest plebeians to the highest nobles, and dependent feudatory princes. But an High Court of Justice for the trial of delinquent Majesty, has hitherto been excluded from the politics, constitutions and laws of nations. The hereditary indefeasible rights of Kings, their inviolability, "the right divine of Kings to govern wrong, and their being unamenable to the laws, and accountable only to God, have so prevailed among sovereigns, and the hereditary aristocracies most generally combined with them, that Kings have been effectually screened and secured from judiciary trials.— These doctrines and principles have gained the force of

laws, by the deliberate opinions of many of the ablest civilians and writers on polity and government, and by the solemn decisions of learned and upright, but mistaken Judges, until the iniquity of thrones has been established by law, and this without remedy. All other wrongs have, or ought to have, a remedy by law, but regal injury and wrong are without remedy. In the future ameliorations and perfection of the public policies throughout Europe and the world, provision will doubtless be made, and tribunals constitutionally defined and established for the trial of royal criminals, of supreme magistrates, emperors, kings, and sovereign princes. This æra is now commenced.

In the middle ages the pontifical power had usurped such an ascendancy, in all the states of Europe, that cardinals, bishops, and the dignified clergy, became exempt from civil jurisdiction. "There have been times, says Vattel, when an ecclesiastic could not be brought before a secular tribunal for any crime whatever." It was once dangerous for a civil judge "to punish an ecclesiastic with death, though a rebel or malefactor."—"History affords a thousand examples of bishops, that have remained unpunished, for crimes which cost the lives of the greatest lords. John de Braganza, King of Portugal, caused those lords, who had conspired his destruction, to be justly punished; but he did not dare to put to death the Archbishop of Braga, the author of that detestable plot."†

Ages of conflict and struggle, between the secular and ecclesiastical powers, among the nations, produced and exhibited, at first a few rare examples of ecclesiastics, in capital cases, rendered amenable to civil judicatories. Similar instances were repeated and multiplied, until this amenability is at length recovered and established through Europe. But Kings have hitherto escaped, and held themselves as exempt from criminal

† *Vattel's Law Nat. B. 1. C. 12.*

judiciaries, as formerly were archiepiscopal malefactors.

A few more instances of adjudications upon criminal Kings, will bring on the same establishment for them. And then the preceding examples of those tribunals, which have possessed the resolution and fortitude to do justice to a delinquent monarch, will be contemplated with approbation, reverence and honor. Then the heroic and high example of the High Court of Justice, which sat and passed sentence upon King Charles I. will be recurred to and contemplated with calm impartiality. And however it hath been overwhelmed with infamy for a century and a half, it will hereafter be approved, admired and imitated, and the memoirs of these suffering exiles from royal vengeance be immortalized.

Much has been said concerning the mode of instituting this court, and the authority of it when instituted : And it has been generally condemned as irregular and illegal. All concur that extraordinary public exigencies necessitate and justify extraordinary measures. All will allow that these extraordinary measures may be sometimes violent, injurious, and inconsistent with the public good, and sometimes wisely adapted to secure the public welfare.

Criminal judiciaries may be erected by law and constitution : such are those of the English nation for subjects. These may be *standing and permanent* tribunals, like that of the Areopagus at Athens, or the Senate of Carthage, or the Courts of Westminster ; or they may be *occasionally instituted* by the authority tacitly supposed to be vested in the King, as was that for the trial of the regicides, 1660. The King had the power to institute Star Chamber and other courts *pro re nata* through the realm. This as all other powers may be abused, or may be exercised wisely. But whence Kings derived this power is not to be found. No man can trace the English constitution to writing. An explicit consent

to certain fundamental principles, or rights, has been at different times deforced from unwilling Kings; but even magna charta is not a complete system of rights and liberties. In its jumbled composition, it contains, however, principles, which pursued to their extent and just comprehension, would establish the system of universal right. The criminal code in particular, and the course of adjudications in felonies and all kind of crimes, for the commons and unenobled subjects, has been for ages well settled in England. As well established is the criminal and judiciary laws for the trial of nobles, though in a different mode. For while in civil matters and the lower felonies they are amenable with other subjects to the ordinary courts of justice, and especially to the supreme courts of Westminster, in high crimes and misdemeanors, and in accusations for treason, they are by impeachments to be brought before their *peers*, that is, a court of nobles, or the whole house of the barons of the realm. There is indeed no written constitution for this, but immemorial usage has established this mode of judiciary for nobles. Justice we may suppose is as well done in this as in any other mode. And it might have been as well done by tribunals, or selected nobles, instituted *pro re natâ* by the sovereigns themselves alone, or by them and the House of Lords conjunctly, had usage and custom established it. Any of these modes had been equally legal, regular and authoritative. Provision is however made for an efficacious prosecution of criminal nobles. And it is well. Happy had it been, had usage also established a judiciary for Kings.

There have been great variations in the judiciaries of nations in a succession of ages: most of which, though seemingly irregular at first, have at length grown into regularity, and obtained with full and legal force, till superseded and laid aside for a new change, which has been found by experience some times for the public benefit, and sometimes to public detriment. We see this

in the republics of Grece, and in that of Rome, and the states which arose all over Europe † upon the dissolution of the Roman empire.

In the Roman government, “the judiciary power was given to the people, to the senate, to the magistrates, to particular judges,” under various, combined and often changing modifications of authority. “The consuls had the power of judging after the expulsion of the Kings, as the prætors were judged after the consuls.” Afterwards the consuls were “satisfied with naming the judges and with forming the several tribunals.” “The Kings reserved to themselves the judgment of criminal affairs, and in this they were succeeded by the consuls. It was in consequence of this authority that *Brutus*, the consul, put his children, and all those who were concerned in the Tarquinian conspiracy, to death. This was an exorbitant power.”—This produced a new change in the criminal judiciary; it gave rise to the Valerian law, by which it was made lawful to appeal to the people from every ordinance of the consuls that endangered the life of a citizen. The consuls after this had no longer a power of pronouncing sentence in capital cases against a Roman citizen, without the consent of the people.” But this was doubtless judged by the consuls and senate as irregular, as was the high court of justice, in 1649, by the Parliament of 1660. “In the first conspiracy for the restoration of the Tarquins, the criminals were tried by *Brutus*, the consul, in the second the senate and comitia were assembled to try them.”*

The Judges were chosen from the order of the Senators till the time of the *Gracchi* *Tiberius Gracchus* effected the change that they should be taken from the equestrian order. Some of these changes were for the public good, especially for the security of life, others were not so, but all legal. I might shew the same

† *Montesq. Sp. Laws. B. 27 and 28.*

* *Montesq. Sp. Laws. B. 11. C. 18.*

mutations in the criminal judiciaries of Athens and Sparta, and of all ancient and modern states, and particularly in the Norman judiciary in England. And unjustifiable violences have attended almost all of them, at first even the changes which have proved the most wise and salutary. What struggles and violences has the conflict of English liberty, that political jewel, endured from Alfred to this day, in the mutation of the Witena Gemot, the reduction of the Meycle Gemote, and the substitution and introduction of the commons to an efficacious participation in the English parliament, or national council and legislature. For ages these persevering exertions of the public spirit were represented and treated as refractory tumultuous and rebellious, by the Kings and Barons, while at length victory has declared on the side of liberty, and the opprobrium of aristocrats is taken off, and succeeded by the approbation of the wise and the admiration of the world.

With the candid and liberal ideas which arise from a large, full and comprehensive view and comparison of the criminal judiciaries of nations, and the causes and reasons which might have necessitated and certainly brought about their changes, we may be prepared to make up an historical judgment on the legality and justifiableness or expediency of any given instance, example, or event, either antient or modern, which may come under our contemplation. We may contemplate the instance, or shall I say the instances in England the last century, with calmness and justice. Certainly great were the exigencies in the conflict of liberty with royal tyranny. For the warmest advocates for the Stuart family and high government, admit their government was a tyranny. Few contend but that the English monarchy is a government by laws; and that it is herein distinguished from despotism, which is the government of a monarch by *will without law*. † The monarch of England, and originally all monarchs by their coronation oaths, are to rule not by will, but by the *laws*

† *Montesq. V. I. B. II. C. 4.*

of the land, the *lex scripta* and *non scripta*. It remains then for him to investigate these, and by these to rule. His coronation oath obliges him to this: and a wise King would wish no greater power. If therefore in his avidity for power, he should transcend the limits and boundaries of the laws, and by high and overt acts should violate the laws and shew himself aspiring to a government of insidiousness and absolute will, he becomes dangerous, and is guilty of a high crime, and a violation of this solemn pact with the community of his subjects. And if the crimes of subjects ought to be judged and condemned, no one can shew a reason why this great *crimen regale* ought not somewhere to find a trial, judgment and condemnation also. But though the coronation oath implies that the violation of it should be judged in some tribunal or other, yet this judiciary is said not to be provided for in the English constitution.—Be it so, though this is questionable; yet shall the patience of subjects endure the oppression of Kings forever? Shall the cause of liberty be given up as lost and irre-sumable? Can no expedient be found to remedy this *evil of Kings*? Are subjects, are millions made for Kings, or Kings for subjects, for millions? Is there not wisdom and power enough in every sovereign state to devise and execute this emancipation? And shall they be deterred from the exertion, or such exertion condemned for want of precedents, or provision in the constitution, if such a political constitution can be conceived? What principle of political or moral right forbids their even originating a precedent in this instance? And this may be by one united effort or bursting forth of the national spirit—or—if the body of the nation, by intimidation or intriguing delusion, or a junction of aristocratical official and other interests, should be prevailed upon to hug their chains and sit still in slavery: in such an exigency should some spirited phalanx arise and spontaneously assume upon them the vindication of liberty, rush on the throne and seize the

despot, what could be said against it? Even should they light upon him like bees, and fall upon him till he died, as did the citizens upon Phalaris of Agrigentum—this might be well—it certainly would be just. But should they in this tumultuous and dangerous exigency, retain such noble and manly possession of themselves, such controul and restraint of the public passion, as to withhold them from this sudden though merited violence, and so as to give opportunity of a fair and open trial, that the condemnation should proceed on real justice: and thereupon by their own assumed authority institute and erect, and empower a court of trial sufficiently qualified and numerous: let the judges be men of common integrity, and discernment adequate to the determination of a plain matter of fact upon evidence—for let it be remembered this trial of a King for the breach of a coronation oath by overt acts, is not a *questio juris* which might require profound law knowledge, but a *questio facti*, as to which all the *boni homines*, the very elders of the gate, are competent judges: If such a court thus established and authorized, after a fair and open examination of evidences, should pass upon a King, that he is guilty of treason—and he be executed accordingly:—If this procedure should be had by those who voluntarily assumed the salvation of their country upon themselves, would they not honor their intrepidity, justice and patriotism, in the history of nations? Would they not have done a glorius work? Should the nation however through any fatal versatility, be again duped into the re-admission of tyranny, and throw opprobrium on their spontaneous benefactors and deliverers: would not their enchained posterity, upon regaining liberty in a subsequent period, contemplate their memories with veneration? and the long protracted reproach be wiped away and turned into lasting honor and applause?

Let us then see whether any thing like this has been

displayed in the civil wars of 1641, and the decollation of Charles I. 1649.

After seven years war against his parliament and subjects he was at length apprehended, and undoubtedly ought to be tried by some high court. Had both houses of parliament mutually and unanimously concurred in instituting and erecting such a court, we should not at this day question its legality, though no such provision is made in the English constitution. Yet this assumption of power would have been acquiesced in. But this was not the case. In the dissonance of the houses, in this great exigence, every one sees the cause was gone, had there been no other expedient.

A tribunal might have been, erected as I have said, in the constitution ; in *magna charta* ; in long usage, in an antecedent act of parliament completed with the King's assent, if such assent could even be supposed to have been obtained ;—Had this provisional court for the trial of Majesty, been defined to have been both houses of parliament, or a single house, either of the lords or the commons ; or a selected number of judges, nobles and commons mixt ; it might have been equally well, and none could have justly disputed or doubted its legality. But no such provision is made ; every effort for this has been baffled ; it has been kept off by the Kings themselves, ever delicate and jealous of their prerogative of inviolability. Indeed in the history of England there have been cases, as I have said, wherein parliament have assumed upon themselves, to judge Kings and transfer hereditary successions. But this was an assumption of exigence and necessity, and not by virtue of written and defined constitution. And when, as in the instance of Charles, the parliament themselves were divided, the assumption must be left to others, or a criminal King go unpunished.

If justice ought not to be eluded : and Kings ought to be tried, as few doubt it, it became necessary that the

patriots should come forth openly, and honorably originate a court without precedent. The resolution taken, it became proper that the judicial procedure assumed not by parliament, but by the subjects of the community at large, or by any respectable associated body of them, or as in the present instance by the army in concurrence with the house of commons :—it became proper that the procedure should be conformable to the regular and usual forms of the trial of state criminals ; or perhaps in the same manner as the whole body of subjects duly enlightened would, if convened, have approved, directed and authorized. It ought to be, a civil, not a military, nor ecclesiastical tribunal. One may conceive various modes of forming such a court. If the whole legislative order should have assumed and considered themselves empowered ; or one house ; or should a commission of selected individuals be pitched upon ; it might be well. Any and all of these are but so many *modes of a judiciary*, would be regular and sufficient to secure the great end of a formal, open, fair, and impartial trial and adjudication. Each of them are at an equal remove both from anarchy and despotism. And the authority of Judges acting on either of these modes of appointment would be equally legal and right in the eye of eternal justice and reason, provided their decisions and adjudications were founded in proof and justice. A national tribunal of seven hundred and fifty Judges systematically appointed by the voice of twenty-five million people, is indeed another mode of judiciary, and equally legal, and according to the original law of nature and reason applied to the national state of society, regularly empowered and vested with full authority to sit in judgment and pass sentence on a King. A legal and just tribunal, even one filled with able and upright Judges, may err, may judge wrong, may judge right. The high court which sat on Charles, I consider as legal in that national exigency. There remains then only to consider, whether their judgment was right ? Whether

it was that, which a supposed unquestionably legal court ought to have rendered? This is all the question that is worth the attention of civilians and nations. However both the regularity of this high court, and the justice of its sentence may be further considered.

The public sense may be mistaken, it may also be right. The judgment upon this must be consigned and demanded to posterity and the calmer ages. There is however a right. The public councils may not always be possessed of this right: they may hold it a long time: they may be perverted, corrupted, deluded to their ruin. Nations as well as factions have been deluded, and afterwards corrected themselves. It took the nation forty years to learn by dear bought experience, that a treaty or compact with the Stuart family was nugatory. Inwrought in them and indelible were principles totally incompatible with the Saxon English ideas of public right and national liberty.

Was the parliamentary war of 1641 right? Few Englishmen will dare to deny it. Let the cause then, for which they fought, be considered as just and defensible. By 1648 the same national council, which had, with heroic fortitude pursued the vindication of liberty, partly by becoming tired out with war, partly by the impolitic divisions and alienations of contending sects, but principally by corrupting intrigue, became disheartened, and were going to give up the cause, and return to their former vassalage. They were hearkening to, and were daily ripening for a closure with the insidious offers and promises of a King, who, as all the world now believe, would have certainly deceived them, and have resumed his former tyranny, as did his son at the restoration. The army and a numerous body of the nation, probably an interest equal to three quarters of the nation, or that united body consisting of the established church and dissenters which afterwards became distinguished by the appellation of the Whigs,

the great favours and vindicators of liberty at the revolution, and the supporters of the Prince of Orange and the Hanoverian Family to this day, and the only present defenders of liberty in the English nation: I say the army and a numerous body of patriots both in and out of parliament saw the snare, dreaded the loss of liberty, and wished an effort for the salvation of the nation from Stuart slavery. They boldly did that which was done at Rome in the instance of Tarquin, at Agrigentum in that of Phalaris, and what the parliament did at the revolution, and America and France have done in recent instances. They ventured upon an extraordinary measure, which pressing exigencies only justified; and which, as of necessity it must have been, was devious from the ordinary course of redressing evils, and according to the long usage and the established course of criminal process, illegal. Thus one people illegally dethroned a King of Rome; another instituted an illegal Congress: and the English patriots illegally did that, which ought to have been done by the constitution—they instituted a high court of justice for the trial of a King, who was in the confession of all men, by his folly and tyranny, the cause of all their calamities.

The commons at this time might consist of three hundred besides the secluded members. The awfulness of the work they were going upon, not the army (which however deterred but a few) so intimidated them, that though a quorum yet fewer than fifty members were present at instituting, and nominating a high Court of Justice, consisting of one hundred and thirty Judges. This act of the commons was non-concurred by the relief of the Lords House, which to defeat the work, adjourned to a distant day. The commons deserted by the lords, did that in this exigency, which both lords and commons had done when deserted by the King; they took the matter upon themselves, as did both lords and commons again without the King afterwards at the revolution 1688, when they invited the Prince of

Orange, approaching them also with an army. Both according to usual forms illegal and irregular, both legal and regular from the extreme pressure of the occasions.

Instead of questioning then the legality of the high court, instituted with this original deliberate formality, resolution and solemnity, the attention of posterity and the world should be called only to two things, the *ability* and qualifications of the Judges, and to the *justice* or *injustice* of their sentence. As to their abilities; if some were of as slender abilities as even the nobility of all nations generally are, which they were not, the most rigid and prejudiced must all own that there were men in this commission of capacities sufficient to conduct a court-trial with jural dignity and impartiality, sufficient for an accurate examination of evidence and judging on facts, and sufficiently learned in the law to judge on treason in so plain a cause, where fortitude was more wanting than great abilities. Abilities however they had. There was a Serjeant Bradshaw, a Lord Grey, a Harrison, a Temple, a Haslerigg, a Whalley, a Lord Say and Seal, a Blackiston, a Ludlow, an Ireton, a CROMWELL; and an ample sufficiency of others abundantly adequate to the work. Let not the abilities of the Court then be doubted. I will say little on the *justice* of their judgment or *sentence*, but leave every one to himself. Had it passed on a duke or a marquis upon the same proofs of treason, it would have been approved of by all men. A King of England, that, dissolving the Parliament, dares to rule the Kingdom without the Parliament, for twelve years, and without their consent deforce loans, levy ship money, and be guilty of the other arbitrary and oppressive enormities, which, by the united and uncontroverted testimony of all the histories of those times, King Charles I. was guilty of: such a King by an impartial and just tribunal, ought to be judged guilty of treason, *traditio libertatis juriqumque reipublicæ*. And if plebeian and no-

bility treason merits death, royal treason or sovereignicide against the state, most justly merits *tyrannicidium*, or the death of deaths. Charles might have been a saint, fit for a pontifical canonization, and Ganganelli says, † that all such are real saints, and so was Thomas a Becket, and if he was the author of the *Icon-Basilike*, he is gone to heaven, but he was an arbitrary, haughty and tyrannical monarch. But had he for his supposed though dubious piety, merited all the high eulogiums which have been annually lavished upon his memory, had his moral character been immaculate, yet was he so deeply, so sincerely principled in despotism, so haughty, atrocious and arbitrary were the overt acts of an erroneous mind, so enormous and intolerable the violences and oppressions of his government, which was one continued tissue of folly and tyranny, one incessant infraction on civil rights and religious liberty, that he lost and extinguished the confidence of his subjects, excited national hatred and horror, forfeited his crown, and justly merited his deplorable and exemplary fate. However it required a singular fortitude to stand forth, and resolutely do that great work of public justice. It was done. And it was well done.

The state and spirit of the parties in these times was perhaps nearly this. The Dissenters, at least a fifth part of the realm of England, were indeed somewhat divided, but collectively friends to civil and religious liberty. At the beginning of the war, the Parliament was generally Episcopal, but disgusted with the tyranny of bishops courts, the disquisitions which led them to vote out the bishops from the house of lords, terminated in establishing Presbytery, not but that they would have preferred Episcopacy and Monarchy, had it been moderate and not inimical to civil liberty, on which they were firm and rivited. But rather than give up civil liberty, they would let both Episcopacy and Monarchy go, though they knew the Venetian Republic admitted Episcopacy. But at the revolution they returned in their

† *Gang. Lett. V.*

hearts to both. For a time, however, these ideas pervaded three-fourths of the inhabitants of England, who were thus united in republican ideas. Church and Dissenters thus coincided and coalesced in the defence of liberty. The rest of the nation were loyalists and high church, and never changed nor moderated; but they were a minority, though a brilliant, a powerful and insidious minority. The revolution broke up the union of church and dissenters, detached the church patriots into a union with high church and loyalists, and left the dissenters ruined. The body of the church were moderate, and differed from the high church, not only as to rigid episcopacy, but as to high principles of civil government, and did not pretend to doubt the rights of the people even to controul Kings. This produced a set of writings in which a vigorous political controversy was carried on among themselves on the principles of civil and absolute government. Many of these masterly productions do honor to that age, and wrought up the public mind into fixt principles of liberty in a limited monarchy. Besides, this interest was uniformly Protestant. The high exertions of prerogative, and the conspicuous Papism of James II. brought on again a coalescence of the friends of liberty, church and dissenters, leaving high church and papists united by themselves; out of the body of whom sprung up that large united interest, which at length received the malevolent appellation of Whigs, an invidious name given to the dissenters and the main body of the church of England, who in their turns gave the name of Tories to the high church and papists, now united, and those royalists who, regardless of religion, were advocates for the divine right of Kings, their indefeasible hereditary rights, and inviolability, and joined in arbitrary measures, and supporting the crown in opposition to the people and parliament. The royal oppression became so heavy, that the whigs among the church once more called in the dissenters, a fifth of the realm, to their assistance.

And though they had been duped and solemnly deceived at the restoration, yet upon the promise of redress they joined the whigs, and this reconjoined force became an impregnable bulwark for liberty, against papacy, and the royal or crown interest of despotism, effected the revolution. But the poor dissenters were again forgotten, and have been forgotten ever since, while in every exigency and party, again in Queen Anne's time, and at the Hanoverian accession, they never failed to join in the cause of civil liberty. An unparralleled instance of persevering fidelity to the rights and liberties of England—while they themselves continue to this day, tho' the most hearty and genuine protestants, deprived of civil liberty, and disfranchised from all civil affairs thro' the realm. Now all this has grown out of the spirit of 1641. The body of the nation, the minority of tories only excepted, have all along down to the present day been, and still are such firm friends to civil liberty, that they will never give it up. And the prerogative having acquired strength in a *new mode* since 1688, by corrupting both houses of parliament by peerages, pensions, and distributions of a system of lucrative offices, the nation is preparing and ripening for a new burst of the spirit of liberty, and rectification or purification of the national policy, which will assuredly take place.—The reformation of the houses, necessary in the confession of themselves and all men, leading the nation to first principles, will convince them that, however delayed, it must sooner or later be done; and that the legislature have no authority to make the constitution, or any part of it, on which they stand themselves;—they will therefore see the necessity of a national convention, empowered by the people for the express purpose of rectifying, altering and amending it. And when they shall be assembled, who can say how far they will go? They will go so far as to put an effectual stop to the possibility of the parliament being bought up by the crown.—This will bring on not only

the modification of the commons, but of the lords, an exchange of hereditary for an elective aristocracy, and ascend to the touching of sovereignty itself; and as England is a mixt monarchy, controulable by law, magna charta and parliament, the King's power of appointing all officers, civil, military and ecclesiastical, must necessarily be restricted and modified. One cannot see how many changes may take place. Twenty years ago the parliament might have reformed themselves, and the people would have acquiesced. This is now become impossible; or, if parliament should do it, it will only bring on those national agitations on the question of their power, which will terminate in a national convention. A revolution in Britain is certain, and all the policy of the ministry cannot avoid it. All this has grown, and will grow, out of the parliamentary war, 1641.

It is necessary to trace out this state of the political parties in order to discern the mistake of the cardinal friends of civil liberty, and the temporary change this mistake produced in the time of the Protectorate; and in order to judge whether Oliver discerned and judged right or wrong, and also whether the execution of the King, even suppose it to have been contrary to the then mistaken sense of the nation, was what posterity ought to approve or disapprove. For certainly this event, with the subsequent violent dissolution of parliament, and elevation of Cromwell to the protectorate, with the apprehension that the nation was about to be ruled by a standing army, were among the principal causes that effected the discordance and alienation of the public sentiment, and reconciled the nation to a return to monarchy, and to concur in a general obloquy upon those times, as a period of the grand rebellion. We do not sufficiently distinguish between the general obloquy; both tories and whigs agreeing in obloquy, but meaning very different things. While both agreeing in general, though not universally, in anathematizing the execu-

tion of the King and the administration of the protectorate, the genuine whigs in all successions to this day, would never suffer or endure that the parliamentary resistance to Charles I. should be stigmatized or vilified with any aspersions. They to this day give the parliament and patriot army co-operating with them, the highest applauses, the firmest and most decided justification : not sufficiently yet adverting or considering that in reality, what will justify them, will justify the whole course of procedure through the protectorate, until the giving up the cause at the restoration. When the parliament altered their minds, the army became formidable, not before.

Through the whole period from 1641 to 1660, the army continued faithful and uniformly devoted to the republican interest for which they took up arms, till corrupted by Monk, the Dumourier of Britain. The parliament stood firm for the republican cause six years : they began to waver in 1647, when there was no need of it, and when they had already accomplished their end, and thereby endangered the cause. The patriot army stood firm, interposed, and gave the finishing stroke to tyranny. But four years after, instead of establishing the liberty they had gained, by a certain fatality attending the noblest cause, mistaken ideas of perpetuity became conspicuous in many truly sincere and patriotic characters in parliament, and manifested itself in bringing forward a bill for filling up vacancies only, in the commons or parliament, by the people, as they fell, instead of dissolving themselves, and calling triennial parliaments, or otherwise establishing a liberal constitution. Thus the national government would soon have grown up, into a polity, not very dissimilar to the Venetian aristocracy, and very abhorrent from that for which the nation and army, and parliament itself, had taken up arms and so vigorously contended. What did the public good require in this exigency ? This defection from the original grand cause of liberty first seized

the parliament, *not the army*, which persevered, keeping the first great object accurately in view. Without any umbrage given by the *army, ever faithful to the national interest*, and the cause of liberty, for which they had taken up arms, the *parliament first conceived without reason a jealousy of the army*, the only or principal obstacle to their ascending into this noxious aristocracy. This mistaken jealousy began the alienation and opposition between the army and parliament. The army had shewn no disposition either to perpetuate themselves or to subjugate the parliament. They continued faithful servants to the parliament till they perceived by the overt act they were about to pass, which tended to, and inevitably would have terminated in perpetuating themselves. For themselves, the army might have been secure under such perpetuation, but the cause of liberty, all must see, was gone. They saw it. How ought they to act as a patriotic army? They were not dangerous to the nation, nor to a polity standing on the election of the people. At the same time ideas friendly to monarchical were growing and prevailing in parliament: all which was laying the foundation of that coalescence of republicans and royalists, which Oliver had the sagacity to foresee would defeat all, and that the republicans would be duped and deluded by the royalists, finally to bring in Majesty. Both these parties now joined in expressing loudly their fears of the army, and by irritating themselves with fanciful, with shadowy, and ideal dangers, rendered the great work of the conservation of regained liberty exceedingly critical and difficult.

How mistaken these alarms were, are better judged by posterity and the world, than by the patriots themselves, in the day of deception. The generality of the nation saw it, even in that day, as appears from their acquiescing and rejoicing at the violent dissolution of the long patriotic parliament; and we in this day see the mistake, in not calling a new parliament immediately upon the death of the King. To such a par-

liament, undoubtedly the army would have been faithful and obedient, in every thing but the recalling a King. But a perpetuating parliament must feel an alarm from an army originally raised against the continuance and perpetuation of any power, whether royal, aristocratical or parliamentary, beyond a period necessary for redress of grievances, when the general public object was a settlement of public liberty. But as I said these alarms were without foundation : and were so seen both by a great part, the minority of parliament, and by the nation in general. We can now more easily see that the parliament were suspicious without just foundation, than they in that day could. Nor would the parliament have had any such apprehensions, had they not first changed their sentiments : changed I believe at first with sincere and honest, but mistaken, judgment. The patriots and friends of liberty, even at this day, entertain the same apprehensions respecting the danger of an army. May I be permitted as patriot, to say, that I have for a long time been freed from such terrors and apprehensions.

An army cannot possibly be dangerous to an elective republic, which would be supported by the electors or people. The national council by withholding pay and supplies, could easily disband and dissolve even the veteran army of a Cæsar. Should they, like his, turn their arms on the senate ; let it be remembered that the English senate was not then composed of hereditary or perpetual patricians, but was, or ought to have been elective. Nor would Cæsar have succeeded, had the patricians been constitutionally elective, or had the people been as habituated to annual or frequent election of the whole senate, as they were of the consuls. Had Oliver's army attempted to deforce their pay and supplies by military contribution enforced on the yeomanry, on the people, whose commons had in a struggle for ages gained from the feudal aristocracy the possession of three quarters of the lands of England, either in fee

or in freehold tenancies for life or lives, they would have met a warm reception, and would have begun a contest which would have assuredly terminated in their overthrow and dissolution. It will prove next to impossible for a standing army to establish conquest over an elective republic; or to overlay the liberties of a people among whom property is equally diffused.— Even in a monarchy this cannot be effected unless a great portion of the feudal system remains in its constitution. Indeed whatever be the policy, whether monarchical or republican, of a nation possessed of diffusive freehold property, it can never be lastingly subjugated either by a foreign or domestic army. The diffusion of property among so great a part of the people of France, by secularizing the church lands to the amount of one quarter of the whole territory of France, and the allodial distribution of it among the peasants or occupants, will engage so large a body to defend their possessions, as will effectually secure their liberties and republican independency. This policy will effectually and permanently furnish a spontaneous host of bold, courageous, and unconquerable defenders. Property has been so diffused among the commons of England, that it has not been in danger from armies for several ages. The commons will fight *pro agris* as well as *pro aris & focis*. The relic of a tenure of property somewhat similar to the feudal system, tenancies at will or for terms, retained a foundation of danger: but already has such an aggregate of property shifted into the hands of substantial yeomanry as will prove an effectual barrier against the conquest by armies interior or exterior. Oliver wisely filled his army with substantial and hardy yeomanry. And whenever the yeomanry are invaded, let us be assured they will stand on their defence.

The original reasons of the beautiful feudal system now cease in Europe. It was excellently adapted to hold the dominion of a conquered country; but now that the conquerors and conquered are become mixt and

incorporated together, throughout Europe, the reason of the policy ceases ; and it would work no mischief or injustice to the holders of fiefs, or danger to the public, if the fiefs were dissolved, and sales were permitted ; which would soon alienate and diffuse the property, and render it allodial. Let the peasants of Poland be vested with allodial property, and they may be trusted with Prussia, Austria and Russia : and I should not doubt their resumption of liberty. See the effect of this allodial tenure of land in America. We have been witnesses that in thirty hours from the moment of shedding the first blood at Lexington, thirty thousand substantial freeholders were spontaneously in arms, and in full march from all parts of New-England. Let the experiment be tried all over the world, and the effect will be the same. Freehold property has too much footing in England, after all the great aggregate of tenancies at will or for years, without reference to day-laborers, mechanics and manufacturers, of no property, to permit ultimate danger from armies.

It is among these that an army must be fought for efficacious defence. Ten thousand of these are worth three times the number raised in the usual manner of conscribing venal armies. This, much more than religion, was the secret of the invincibility of Oliver's and the American army. They had a motive to fight for liberty and property. France has now got enough of these men to defend her republic. And they will do it effectually.

But the contemplation of the Alexandrine, Roman, Ottoman, and other national armies, has occasioned the ablest civilians, the most firm and enlightened friends of liberty, to be greatly terrified with the danger and fear of armies, and to anticipate their everfion of constitutions, as in foreign nations and ancient ages ; not sufficiently perhaps, advertng to that which has rendered them dangerous, the impolicy of forming

great divisions of landed property into fiefs, so as to be occupied by the body of inhabitants in a very dependant tenure. There needs no agrarian law, arbitrarily to make a new division of territory, and give it away from the old possessors, and distribute the property of great land holders among the people. Let the Triumvirs of Turkey, the Barons of Germany, the Starostas of Poland, be only permitted by law to sell and alienate, let there be a public law that entails shall terminate, and fiefs and all hereditary property shall vest in the present possessors in what the English law calls fee simple; and in less than a century so much of the territorial property will become allodial, or transferred from the hereditary noblesse and aristocrats to the common people, or to the community at large, as will render them unconquerable, and beyond the danger of armies, especially if the citizens of the community be formed into militia, or even if the citizens are not prohibited arms. The game act in England, in the time of James I. and in France in the time of Henry IV. operated completely to disarm the common people. The repeal of this, and the abolition of laws restricting the people all over Europe from pursuing wild game, designed by the God of nature to be untamed and unappropriated, and like the air or ocean free for the common use of all mankind, and the people would soon be armed. An armed people are capable of being formed into a defensibility which would preserve them from invasion. Even Oliver's army would not be dangerous to a country whose inhabitants were possessed of diffusive property, and were regularly formed into a systematical militia. I know indeed that many of the best and wisest patriots, and the firmest friends of liberty are of a different opinion, and I must therefore submit it. I myself consider Oliver's army powerful and victorious, but not dangerous to liberty in England, though they were so to Scotland and Ireland, in the unjustifiable war he carried on in those two kingdoms. And here I wish to insert this

general apology. If there should be any mistakes in these historical touches, and statements, they can be easily corrected by referring to the authorities. To this correction I do and ought readily to submit, as I write more from the recollection and recollection of former reading, than from recent reviews of the histories.

Oliver is generally considered as a tyrant and an usurper, full of religious enthusiasm, and of unexampled dissimulation in religion and politics. The time has been when I entertained such ideas, not from the Clarendons, the Sacheverels and Atterburys, but from the Hollises, the Hales, the Barnets and the Lockes. And yet upon more thoroughly entering into the genius and spirit of his character, I have altered my sentiments. With respect to dissimulation, I never found a man freer from it. Indeed, like all discerning and wise men, in different circumstances, upon new views and upon new evidences he altered his mind; but when he uttered himself he never dissembled; he sometimes concealed, but when he spoke, he ever spoke his mind, and no man more decisively and unequivocally. *No man ever misunderstood Oliver*; they dreaded him, but they knew what he meant, and what is more, without deception, they relied upon it that he intended to do it, and still more that it would be done. He was ever clearly understood. Unambiguous precision, clearness and perspicuity were apparent in all his public speeches. By his bold and masterly generalship, by his subtilty and discernment, he eluded the intrigues and stratagems of his numerous potent enemies. He could not have accomplished it by hypocrisy. He did it by well concerted and deep policy. He was a match for the world, and especially for all the cabinets of Europe. He led others to deceive themselves, but he never deceived them. Hypocrisy was unnatural to him, it was abhorrent to his very nature. He needed it not.—He was too sincere and open in religion to need hypocrisy for ingratiating himself with the religionists. They

knew him well, and they had his heart, and he had their's : and he was too wise to expend a useless hypocrisy upon those who could never be brought into his measures. Away then with the stupidity of charging Oliver with hypocrisy. He had too much courage to be a hypocrite in religion or politics.

As to his religion he was a sincere Puritan. In his youth, while at the university, and until aged twenty-five, he was thoroughly vicious and debauched, unprincipled in morals, of turbulent, of haughty and ferocious manners, and abandoned to all licentiousness. He was then seized by the energy of Omnipotence, and so strongly impressed with the awful solemnities of religion and eternity, as effectually changed his heart, gave a new and decided direction to the purposes of his life, reformed his morals, and recovered him to exemplary piety ; in which he resolutely persevered through life, unfulfilled, unpolluted by vice, by the splendor of courts, or by the luxurious living usually attendant upon the elevation to which he ascended. Like a citizen of the universe, he was ever seeking the Lord, as did King David, and the lord chief justice Hale. If the ten Kings of Europe had now a pious David among them, who was always singing psalms, praising God, praying and seeking the Lord, as that religious King used to do, they might denounce him an enthusiastic religious hypocrite, with as much justice as Oliver. Ought Daniel to be ashamed of worshipping the God of heaven, lest he should incur the imputation of hypocrisy, which he certainly would have done in the licentious deistical age of Charles II. ? Shall Oliver be vilified for seeking wisdom at the Fountain of Wisdom ? At least is not one hundred and fifty years long enough to cast reproach and derision upon a man for asking counsel of his God upon every important emergency ? Good God ! shall it be a disgrace for mortals to supplicate thy throne ? Or do we find ourselves in a part of the creation, where it is infamy and reproach for a finite limited mind to

consult Infinite Wisdom and unerring rectitude? O Oliver! how I love thine open, thine unabashed, thy undissembled and undisguised religion!

He believed in the moral government of the Most High, regarded it, and revered it. He believed the grand leading principles of it were displayed and developed in at least one single instance, the series of the divine treatment of the Hebrew nation, which he had selected as a specimen of his whole moral government of nations, and of the universe itself, and particularly as an example, in which all might look, and thence form a decided judgment of God's actual treatment of all nations, all spontaneous sovereignties, however formed, that it should be, always had been, and always would be most exactly according to their moral state for religion and virtue, or the reverse. As he believed, so he really saw God carrying on this government among all nations: and that the rectification of the moral state of a people, and suppressing vice and irreligion, was co-operating with God, and ought to be the pole-star of political sovereigns. Hence he studied the law of the Lord; an antiquated work, very valuable it might be supposed as issuing from Infinite Wisdom, a work however like the antient Digest of Justinian, grown obsolete and very little attended to by modern civilians and princes, but like the Pandects when found at Amalfi, greatly valued. The sacred Pandects were deeply studied by Oliver, to learn from thence the principles by which the sovereign monarch would govern a nation, govern a universe, and as the great exemplar for his subordinate imitation. Thus he studied the principles of the divine government in the BIBLE, which was the man of his counsel, as it was David's, rather than in the unprincipled deistical views of the state of nations, in which he could learn little more than the corrupt and diabolical principles of a machiavelian policy. If at any time mistaken, he made it however his ultimate view and endeavor, to act his part under

the God of heaven with integrity and fidelity, and with unawed resolution to prosecute this, and at all events in his personal and governmental character to approve himself to his God. In great and numerous instances he appears to have been the self denying and disinterested patriot. He acted with a magnanimity, a purity and greatness of character, in many trying instances, scarcely to be equalized. He was a Phoenix of ages.—The more his character is examined, even with the severity of the most rigid, but dispassionate justice, the more will this idea force itself upon us, and evince that it will live and shine with a permanent and abiding glory. This for his *religion* and *hypocrisy*.

Oliver is ridiculed for studying the scriptures, and especially for modeling his laws and government by them. Unhappily this is too much considered as absurd and ridiculous by christian civilians and politicians, who sincerely take the Bible indeed for the directory to heaven, but not for civil life, and least of all for law and government. With avidity we seize the scattered scraps and reliquæ of the antient legislators, and the law codes of states and nations. With avidity we learn wisdom, we learn the principles of law and government, from the histories of nations, from the fragments of the XII tables, of the institutes of Numa Pompilius, of Lycurgus, Solon, Zoroaster, and Confucius, and even of the profoundly wise code of the Gentoo laws. All whose institutes, however, also pretended to have been of divine original, yet by European civilians are now universally considered as founded in the researches and investigations of reason, often fallible, various and contradictory.

The Edda, Ossian, any reliquæ of the institutes of Odin, are read with admiration. Could a book of the Druids be found, purporting to be two thousand years old and written by a Druid, as the Penteteuch by Moses, describing the sacrifices and priesthood, the laws

and history of the Druidical system, a Burgoyne would lay hold of it with rapture, and would neither blush nor disdain to learn from thence the office of priesthood, though despising the Mosaic and Christian priesthood. And even Hume, Gibbon, Voltaire and Rousseau would read it with avidity and admiration, and deduce from thence with triumph as from the Koran a contrast for the depreciation of christianity.

With infinitely greater justice might we admire and profit by the code of Bramin laws, as delivered by the Pundits and learned Jurists of India ; in which are to be found many excellent principles of law and equity, as well as government, worthy to be adopted into the jurisprudence of all nations. Could we find the code of Alfred it would be read with valuable instruction. If the reading and admiration of these antique compositions, are applauded as indicating high taste and discernment ; why should the reading of the sacred code be reprehended ? In the Mosaic code, if we except the institutes peculiar to the successions in family inheritances, in the tribal divisions of territory, and the sacraficature, there will be left a very valuable body of laws of contracts and commutative justice, as well as of criminal law, having the advantage of being ascertained by God to be founded in eternal reason, and the universal immutable law of nature. It must therefore be worthy of the contemplation of political governors and judges who are sincerely desirous of investigating and establishing righteousness and justice in their administration. To Deists this would be of no moment ; but to Revelationist Civilians it must be of unspeakable utility and consolation. With peculiar profit and advantage may Kings and sovereign rulers look to the character of David and Jehosaphat, Vizirs and Prime Ministers to that of Daniel, and Judges to that of Samuel ; entering into the spirit of their examples ; avoiding their errors and that wherein they were disap-

proved of God ; and imitating their excellencies and virtues : with the singular heartfelt consolation of knowing with precision that herein they are so far acting to the approbation of the Most High, by whom Kings reign and Princes decree justice. Judge Hale was thus actuated. If a human system of national law, the principles of polity and governmental administration well digested, and compiled on the experiment and wisdom of ages, be thought worthy the study of a Judge, a Statesman and Legislator, or Politician ; how infinitely more worthy of our study and contemplation a code of divine law and jurisprudence, could we find such an one instituted by God for any nation on earth ? Oliver found such an one ; he saw this in that of the Hebrew nation. And under this view, deceived or not, how consistent and rational and just for him to study it with the greatest diligence ? For besides that it ascertains, as he was weak enough to believe, the way to a better world, it gives innumerable important declarations and decisions in national law and equity, educes the principles of justice in numerous great law cases, with a divine attestation and ascertainment, thereby superadding a weight, of which the pandects and laws of all other nations are destitute. In the bible we are not only ascertained of laws, but *government*. Of what immense advantage is it that, in the general examples of Kings and rulers and statesmen, even under all the human corrupt mutilations of the original polity given by God, we may learn what Kings and Potentates may and may not, ought or ought not to do, what God has approved and what disapproved, in civil, military and political administration : and how sovereigns and subordinate rulers, in what manner soever elevated to rule and dominion, ought to conduct government, both for the welfare of society, and the acceptance of the Most High. I will not commit myself, nor surrender my own discernment, I will not temporize so much in an easiness of concession to others, though of the first cri-

dition, and highest literary and professional abilities, as to make Revelation a question. They well know, how much soever they may smile at our credulity, that we believe it with firmness, and that there are among believers men of equal abilities, and even of superior, more profound, and more comprehensive erudition: nor are they to conceive that they monopolize all the fair inquiry in the world. I should as readily surrender the demonstrations of the Newtonian philosophy and astronomy, as the demonstrations of revelation to fanciful philosophic theorists and visionaries. We have not followed cunningly devised fables in believing the system of revelation. For a state or civilian that believes it, shall it be turned to their reproach, that they attend to it and use it accordingly? that it should become the daily use both of Princes and subjects? a use, which the disciples of Confucius and Rousseau would themselves applaud and announce worthy to be adopted and recommended, the moment they should see it as we do, a divine Verity. Let Oliver then be no longer reviled for reverencing the law of his God, as a *legislator* and *politician*, as well as a *christian*.

And as to his *tyranny*: let us once be determined, that the dissolution of the long parliament was just and necessary; necessity will then require some character to do it, and that some such head should arise to do the work, and assume the government. Thus necessity required the American resistance to parliament; necessity required a Congress, an Adams, a Hancock, a Randolph, a Jefferson, a Rutledge, a pious Gadsden; necessity required, legitimated and justified the act of independency, and the dismemberment of the United States from the British empire. Oliver was elevated to the sovereignty of the commonwealth by a necessity, both as it respected himself personally and the republic, which precludes and annihilates all ideas of usurpation. He enterprized, and by his fortitude united with heroic wisdom, he did that, which, in a polity unviolated by

its governors and administrators, would have been usurpation ; but in this infracted and tumultuous period, was a glorious deliverance, rescue, and conservation of liberty. He seized the helm and saved the ship, when the course its pilots steered was to certain ruin and destruction. At one bold stroke he destroyed the perpetuation of the parliament, and left all open for a free republican establishment. And it was soon manifest that this dissolution was very grateful and acceptable to the great majority of the people. Thus he brought the nation to the very object of the parliamentary war. Every thing was now open and prepared for the nation to form its own constitution, founded on the rights and liberties of the people. But the nation was not ripe for deliverance. It was not ripe for the unnatural union and consolidation of the three kingdoms, on which, as to subjugation by force, Fairfax was right and Oliver erred. It was ripe for a republican polity for England, and no more at that time. But the necessary light and wisdom was withheld from them. The comprehensive views of Cromwel and the patriots grasped at too much, at more than was prepared then to hold together. Their uniting three kingdoms was a then impracticable and delusory object. Had the convention parliament of 1653 made England only the object of their republican polity, they might perhaps have succeeded. Scotland could not then bear to bury their sovereignty as an independent kingdom, in the commonwealth of England.

The principles of the constitution were good. The work was well begun, but never perfected. It was well done in part, that is for the delusive protectorate, and an elective triennial and well apportioned house of commons, saving its object was too extensive, the consolidation of three kingdoms then impracticable : It also well regulated as to the elective and succession of the other house, or house of Lords, making them in a certain mode dependent upon the house of commons.—

Upon this constitution, which was regularly brought into use, the elevation of Oliver to the Protectorate was regular, and legal, and no usurpation. He was no usurper, but legally and constitutionally invested with the supremacy in dominion.

However these happy beginnings were never firmly finished, and the whole fabric was overturned at the Restoration ; yet the great work, and the whole great enterprize of the Long Parliament and Protectorate, make an important and glorious period in the history of England, by far the most distinguished and glorious in the English history from Alfred to the present time.— This memorable conflict and struggle has proved the means of the conservation of all the liberty remaining in the English constitution ; and furnished an example for the contemplation of ages, and to which the English nation will ever have recourse, until in some future period, animated by the examples of these patriots, and resuming their principles, they will act them out to their full extent, reform and perfect their policy, and work out the salvation of liberty. And so great will be the future benefit of the example of this period, it will abundantly repay all the blood and treasure expended in the glorious contest with tyranny, from 1641 to 1660, inclusive of the twenty or thirty regicides who were ingloriously sacrificed at the Restoration. Had it not been for the parliamentary opposition to Charles I. no man doubts but his tyranny would have been increased, till the parliament would have been no more, or reduced to a cypher, and the government become as arbitrary and despotic as that of France or Spain. This glorious struggle gave a check to it ; and though abortive by the return of despotism, will be revived again and again in the nation, with redoubled and redoubling force, until it shall at length establish an enlightened and happy polity. There will the meritorious characters which shone and displayed themselves in the antecedent periods, of efforts leading on to this great and glorious

event, receive the lasting tribute of perpetual estimation and honor.

No more will the immortal Oliver then be considered as a tyrant and usurper, but as one who was legally and regularly invested with the protectorate, and as one executing that high trustment with integrity and ability, and with an unexampled equity and benevolence. Being installed in office, "he proceeded to the exercise of his authority, which he used at home with great moderation and equity, but so effectually asserted at all foreign courts, that he soon made the greatest figure in Europe, and received marks of respect from all the sovereigns in Christendom, who trembled at his power, and courted his friendship, at the same time that they hated his person."† He reformed the laws, and for this end joined and availed himself of the assistance of persons of the greatest integrity and ability, to consider how the laws might be made plain, short and easy. He took care to put into seats of justice men of the most known integrity and ability; he reformed the chancery; he was of great discernment in characters, and filled all the offices of every department, civil, military and naval, with the best set of officers ever known in the nation. And when he had done this, he awed them into fidelity. He set them to work, and he saw that the work was done. They knew he would not be trifled with, they all knew it must be done, and it was done. Never was the whole system of interior government carried on with more firmness, justice and order, or freer from corruption, oppression and injustice. He was a terror to evil doers, and a praise to them that did well. He established liberty of conscience. His government was impartial, peaceable, mild and moderate, but energetic and efficacious, and firm as the mountains. It was excellent. He appointed Major-Generals to superintend the inferior magistrates in every

† *Review Life O. C. by a Gent. Mil. Tem. P. 167.*

county. “*It was hardly possible for any governor to shew more regard than Cromwell did for the rights and properties of private men, He supplied the benches at Westminster with the ablest lawyers, whom he had invited to the public service. Maynard, Twisden, Newdigate, Windham, and other gentlemen of great integrity and learning, were made by him Sergeants at Law, and Mr. Matthew Hale, afterwards the famous lord chief justice Sir Matthew, was advanced to be a justice of the common pleas. Milton, the great Milton, was Latin Secretary, a man that would have done honor to the mightiest monarch, to the most polite and learned court in the best ages.”—“Nor can we better sum up the character of the civil government at this time, than in the following extract, which is chiefly taken from Echard, a most virulent enemy of the Protector and his friends.”—

“Cromwell, though he proceeded in an arbitrary manner against those who contested his authority, yet in all other cases, where the life of his jurisdiction was not concerned, he seemed to have a great reverence for the law and the constitution, rarely interposing between party and party : and to do him justice, there appeared in his government many things that were truly great and praiseworthy. Justice, as well distributive as commutative, was by him restored almost to its antient grace and splendor ; the judges executed their office without covetousness, according to law and equity, and the laws, except some few, where himself was immediately concerned, being permitted to have their full force upon all, without impediment or delay, men’s manners, outwardly at least, became likewise reformed, either by removing the incentives to luxury, or by means of the antient laws now revived, and put in execution. There was a strict discipline kept in his court, where drunkenness, whoredom and extortion were either banished, or severely rebuked. Trade began again to flourish and

prosper, and most things to put on a happy and promising aspect. The Protector also shewed a great regard to the advancement of learning, and was a great encourager of it. The University of Oxford in particular, acknowledged his Highness's respect to them in continuing their chancellor, and bestowing on the public library the twenty-four Greek manuscripts, and munificently allowing one hundred pounds a year to a divinity reader. He also ordered a scheme to be drawn up for founding and endowing a college at Durham, for the convenience of the northern students. Towards all who complied with his pleasure, and courted his protection, he manifested great civility, generosity and courtesy. No man seemed to be more tender of the clergy than himself, though he would not lift himself in any particular sect, saying "it was his only wish to see the church in peace, and that all would gather into one sheepfold, under one shepherd, Jesus Christ, and mutually love one another." Though the public use of the common prayer was denied to the Episcopal party, yet he allowed the use of their rites in private houses: and milder courses were then taken than under the tyranny of others." Ideas, how just, liberal and noble! how becoming the dignity and benevolence of the head and father of a republic! An example how worthy the emulation, the imitation of all sovereigns!

The purity of his principles are called in question, or rather now with one consent reprobated by all.— Shall we say it is impossible for a man to be ultimately actuated by the views of patriotism and public weal? Had any other man done half the good and excellent things for the regulation of the public welfare, he would have left his character for real patriotism unproblematical. Not only were his actions the most wisely adapted and efficacious for the public good, but he appears as uniformly actuated by a fixt regard to public justice and right, as it appears possible for a character whose aggrandizement arose out of the aggrandizement

and true glory of the state he governed. It is insidious to ascribe all to sinister and separate personal views in a character of so much public usefulness. But it is said he once put the question to Whitelock, "What if a man should take upon him to be King?"—letting out the secret that ambition and lust of dominion was his ruling passion and ultimate view. He saw further than Whitelock: he knew the nation and parliament were ripening into ideas of the necessity of Kingship, and knew that it would be fatal to republicanism, his great idol. And what if founding the public sentiment, and being too knowing for Whitelock, he took him in with this subtil question, and by it unlocked all Whitelock's heart, without disclosing his own. Very instructive and useful was this conversation to Cromwell, who left his friend to deceive himself and the world, as if he aspired to the crown, when nothing was more abhorrent to him. The experiment was made upon him: the crown and title, with all its flattering glories were offered to him, and with the greatest importunity pressed upon him, by the unanimous voice of a misjudging parliament, joined with the first law characters in the nation. He was wiser and saw farther than all the parliament. He saw that by accepting the title the object for which he and the nation had been contending, a free state, would be given up, and this was as dear to him as to a Washington. The national object would be now changed into a family personal contest, whether Cromwell or Stuart should be King. Cromwell could have been King, but his idol liberty and the commonwealth must be given up. Not the gratification of ambition, but faithfulness to his country's cause operated, and he nobly declined the proffered, the delusory, the ruinous glory. In this, as well as in the uniform tenor of all his conduct, when critically, justly and candidly examined, he ever appears, to a distinguished degree of fidelity and perseverance, to have been decidedly actuated by pure and patriotic motives. Nor

was it because, under the name of Protector he had got the substance, and was possessed of equal power with a King, which was not the truth; it was because he saw that hereby the cause would be given up, and the government return to a tyranny. And his ideas were verified at the Restoration. Let republican liberty and the establishment of the collective body of the people in the possession of their laws and rights, be considered as Oliver's ruling motives, and all his conduct may be resolved, without having recourse to corruption, venality, ambition. He would thereby be prompted to all the daring, the great and heroic actions which adorn and immortalize his character. The more thoroughly this character is examined, even with a rigidly just, but unacrimonious severity, the more will it approve itself as an high example of purity in governmental and political life.

I have said that Oliver was tried with the title of a King, and declined it. Many of the true patriots sincerely, as well as others from ensnaring views to reconcile the nation to a return to monarchy and revocation of the royal family, were fond that Oliver should have assumed the name of a king. But he saw beyond them all, that it was time to lay the name, as well as the thing aside. Such and so various, so complicated, perplexed and indefinite had become the association of ideas connected with that name, that its further use was dangerous, under the most expressly defined and well limited descriptions. No man knows the prerogatives of the crown with precision, in any state in Europe to this day—All is lost in clouds and incomprehensible mystery.—Like the title of Bishop, which has become, in the notorious confession of all men, a very different thing from the original scripture bishop. All the world knows that the scripture bishop differs from the titular bishop of the middle and subsequent ages, by the additions paraphernalia of civil, political and ecclesiastical powers, and even in some instances of secular sovereignty in ci-

vil dominion, as Mentz, Cologne, and Osnaburg; as well as in the twenty-six English bishops, and in most of the episcopacy of the Latin, and in some instances, of the Greek church particularly in Russia. While all along through every age have been to be found all over Christendom, amidst the general ship-wreck and prostitution of the Apostolic institution, the scattered remains of the primæval scripture episcopacy, in the pastorate, or primacy in the coequal eldership of a single congregational church. Papa, or pope, was the common and universal appellation of the clergy, both bishops and presbyters, throughout Christendom, in the second and third centuries, and continues to be so to this day in the Russian Greek church. But though originally signifying only *Father*, it has acquired such odium and infamy in Western Europe, that there is not a protestant bishop but would now abhor and disdain it. After the present war of Kings, the very name King will become equally odious and infamous.

Supposing Christendom at a given time, as the present, should consist of 130 millions of nominal christians; and these resolved into 130 thousand churches, or congregations, of a thousand souls each; and that each of these congregations were furnished and organized with a presbytery, and each a bishop or pastor at its head, that is a bishop, priests and deacons for each congregation; this would be the scripture model and polity for the church, and thus *jure divino*. Now for the purposes of fraternal communication both of the ministers and churches, what kind of artificial polity they might agree for prudential and wise reasons to throw themselves into, whether into an hierarchy consisting of various grades and subordinations under one pontiff, or a number of hierarchies under different pontiffs, or independent supreme heads, or however they should modify themselves into presbyteries, classes or assemblies—all of it must be considered as only human counsel, and not at all *jure divino*. In the candor of

every mind they must be stripped of all this, towards discerning the true scripture bishop. It surely is not a little singular, that neither the omniscient Jesus, who certainly foresaw the growth and multiplication of his churches, nor the inspired apostles, should ever have suggested, nor have left any directions for the arrangement and formation of any systematical hierarchies, or indeed of any combinations or polity at all, out of a particular congregation, if they had seen it necessary or expedient, for the well being of the Catholic or universal church. The presumption is strong, that Christ did not see it to be necessary ; and from the apostolic predictions of an ecclesiastical apostacy, he certainly foresaw, as Clement informs us, that it would be dangerous, as it has proved in history. In reviewing the state of the church, we ought carefully to distinguish what is of divine and what of human wisdom. We do this with respect to the inspired books, and the uninspired, with clear and certain precision. With such a distinction and analysis we may easily discover the scripture bishops, which when stripped of all additions paraphernalia, will all become fratres brethren, and scarcely distinguishable from the humble pastors, the untitled common ministers of the churches. But if any sect or body of christians are pleased with a sacerdotal hierarchy, ascending through various gradations, dignities and eminencies, "from the dirt to the skies ;" † yet let them all cease to think, there is any *jus divinum* in such a polity.

In like manner, we are not to infer the primæval meaning of a King, or title of the chief ruler of a sovereignty among the nations, from the meaning to which it has long grown up by use in the ages of tyranny and usurpation. Kings, *Melakim*, leaders, rulers were primæval in all nations and countries around the terraqueous globe, and must have been from the spontaneous nature of universal society. The first seventy-

† *Maybew.*

two nations immediately after Babel had them. But what were these primæval Kings? Not despots, rulers by their own will, but actors forth of the counsel and will of the people, in what for the public weal was by the people confided to their execution, as *primi inter pares consiliarios*, the first or chief baron in the teutonic policies, of a presidential, not autocratical authority, the organ of the supreme council, but of no separate and disjoined power. Early indeed among the Oriental nations sprung up a few Ninuses, while in general for ages, particularly in Europe, they were what they ought to be. If we recede back into early antiquity, and descend thence even late into the martial ages, we shall find the *reliquiæ* of the original policies, especially in Hesperia, Gaul, Belgium and Britain, and plainly discern the Duces, the Reges, the heads of nations, by whatever appellation designated, still the *patres patriæ*. The additions powers annexed to their titles afterwards, caused them to grow up to *tyranni*, governors of will. Not so in the beginning, when they were like the Sachems of Indian nations. And perhaps the primæval polities may have subsisted and survived with purity in the Indian sachemdoms, which however hereditary, are so in a mode unknown to the rest of the world, though perfectly understood by themselves; nor is any man able with our present ignorance to comprehend the genius of their polity or laws, which I am persuaded are wise, beautiful and excellent, rightly and fairly understood, however hitherto despised by Europeans and Americans. We think of a Sachem as an European King in his little tribe, and negotiate with him under mistaken transatlantic ideas. And so are frequently finding them cyphers to certain purposes without the collective council of warriors, who are all the men of the nation, whose subordination is settled and as fixt as that in the feudal system. At times we see a Sachem dictating with the seeming authority of a despot, and he is obeyed because of the united sense of

the nation—never otherwise. On their views of society their policy is perfect wisdom. So antient Kingship and council monarchy in Asia and Europe, was like that of Melchisedek, lenient, wise and efficacious.—This still lives in Africa and among some of the hordes of Tartars, as it did in Montezuma and Mango Capac. But these *primi inter pares* soon grew up to beasts of prey ; until ages ago government has been consigned to the will of monarchs, and this even with the consent of the people, deluded by the idea that a father of his people could not rule but with affection and wisdom. These in Greece and Sicily were called Tyranni, to distinguish from Archons, Princes and other rulers by council. All government was left to will, hoped and expected to have been a wise will. But the experiment raised such horror and detestation, and this official title has for ages become so disgustful and obnoxious, that Kings themselves cannot endure it. Never will a King hereafter assume the name of a tyrant, nor give the name of Bastile to a national or state prison. The brazen bull of Phalaris was used once ; has been disused two thousand years ; and will never be used again. So the name of a King now excites horror, and is become as odious in Europe, as that of Tyrannus at Athens, Syracuse and Agrigentum. The name and title of King will soon become as disgustful to supreme magistrates, in every polity, as that of tyrant, to which it is become synonymous and equipollent. It may take a century or two yet to accomplish this extirpation of title ; but the die is cast, Kingship is at an end ; like a girdled tree in the forest, it may take a little time to wither and die—but it is dying—and in dying, die it must. Slaying the monster was happily begun by Oliver : but the people spared its life, judicially given up by heaven to be whipt, scourged and tormented with it two or three centuries more, unless it may be now in its last gasps. Now there must be a supreme and chief ruler in every society, in every polity : and was it not

for the complex association of insidious ideas, ideas of dread and horror connected with the appellation King, or could it be purged and restored to the purity of antiquity, it might still be safely used in a republic. But this can not be done:—It must therefore be relegated into contemptuous neglect. And a new appellation must be taken up—very immaterial what it is, so it be defined to be but *primus inter pares, consiliarios*, stand on frequent election, and hereditation for ever repudiated and banished. The charm and unintelligible mysteries wrapt up in the name of a King being done away, the way would be open for all nations to a rational government and policy, on such plain and obvious general principles, as would be intelligible to the plainest rustic, to the substantial yeomanry, or men of landed estates, which ought to be the body of the population. Every one could understand it as plain as a Locke or a Camden. And whatever the Filmers and Acherlys may say, the common people are abundantly capable and susceptible of such a polity. It is greatly wise therefore to reject the very name of a King. Many of the enlightened civilians of the Long Parliament and Protectorate saw this. Oliver saw it. And who shall say, this was not the governing reason of his rejecting it.—From reading his sensible and masterly answer to Parliament, I believe it was his true and only reason. If acting on such a motive is ever possible to the efforts of humanity, Oliver, of all men, was the man to do it. Certainly he could have exercised more power under the title of a King, than under that of a Protector, which was far, very far more limited, besides the certain hereditation of the crown in his family. It is impossible justly to ascribe his refusal to avidity for power or family honor.

In the course of this disquisition, and especially in this chapter, let it be remembered, that I am not to be considered, as the simple historian, but as professedly advocating the cause of the Judges and the general cause

of liberty, and as adducing historical testimonies and statements, to be applied in illustrating and establishing such a defence. To this end a review of the principles of the long parliament and protectorate becomes necessary, in every mind, for with them the cause of the Judges stands or falls.

I proceed then and say, that Oliver was again tried in a second capital instance. Connected with the ambition for royalty, would naturally be that of an ambition for heriditating this honour in his family. The protectorate was by the constitution for life indeed, but elective. It was doubtless in Oliver's power to have made it hereditary. Through the whole course of his administration, does he ever discover any intrigues and movements this way? Do we ever hear of his negotiations this way? Yes, it is said, that, at his death, he contented that his son Richard should be proclaimed as his successor. This was true. And this is all; and perhaps this was after death had invaded his mental powers. Had Oliver felt his wish, and had he perceived the general sense of the nation for it, and had he foreseen that such an establishment would have received national support, we will for the present say, that he would have hesitated, if not closed in with the measure; he would have been corrupted, if in such a statement it would have been corruption. But we in vain conjecture, what he would then have done: he might have heroically displayed a fresh proof of his disinterested and incorruptible patriotism, and have rejected it.—It is in vain however to amuse ourselves with conjectures upon so sagacious a character, as Oliver's. Let us rather substitute ourselves in his case, and judge how so discerning and wise a man as Oliver would have acted in the then present circumstances. He plainly saw such a growing and spreading inclination in the nation for the return of monarchy, and even of the Stuart family; that however he might have hoped to have warded it off in 1653, yet by 1658 he as clearly and satisfac-

torily foresaw the inevitable destruction of the cause, and the restoration of Charles II. by the union of the monarchical members and open royalists, as if he had received it by prophecy. He saw the tide was turning and would overwhelm all. In this to me indubitable despair of a good but lost cause, what heart would he have, had he been as ambitious as Cæsar, for concerting and enterprizing plans for the hereditation of the protectorate? Add to this, that had such a thing been his wish, he too well discerned and judged of characters, even those of his own family, not to know, that the pacific, mild and inoffensive Richard, had neither a fortitude nor wisdom, nor spirit of enterprize equal to such a crisis. Indeed his family situation was very peculiar and trying. He had four daughters and two sons. He was so effectually deserted by them, that he could not possibly have entertained any hereditary hopes or prospects.

Bridget—was against monarchy and the protectorate, even in her father.

Elizabeth—against her father's religion—a pious episcopalian ; a friend and partizan for both Charleses.

Mary—for monarchy and the restoration.

Frances—willing to have married King Charles II : to which her mother consented with earnestness, and was for having Oliver sign the *charte blanche*.

So the protector and his cause, given up and deserted by his wife, and all his daughters. Nor were the two sons very tenacious of the cause. He therefore never had a serious thought that Richard could possibly succeed. And could he have foreseen the continuance and perpetuity of his beloved commonwealth, to which hereditation he knew was a poison, I believe from the tenor and firmness of his former conduct, he would have given a new and singular proof of his patriotism, and have discountenanced and rejected the election of his own son, least it should have led on to this baneful

hereditation. But, as I said, he knew that the restoration would soon take place, and therefore discovered no fruitless intrigues against it. He well knew that whatever might be done, nothing could prevent it. His council and parliament were perfectly at a loss, what were his wishes, and he never disclosed to any man this despair, which it is not to be doubted he felt to the heart. The election of a protector was with the lords of the council : they judged or conjectured that it would be agreeable to him, to be succeeded by his son : and just as he was expiring, and had done with the world, they simply asked him his pleasure, whether Richard should be proclaimed ? and without the least comment or directions, he as simply just answered, yes ; on what his sagacity knew, if he had any sagacity left, would be perfectly nugatory. Had they asked him, even in his senses, whether say, Desborough, Whalley or Fleetwood, should have been proclaimed, his answer might have been the same. He had heroically fought through and sustained the cause, but he knew it terminated with his death. Oliver, if any man, ought to be credited in his declarations of sincerity, necessity and obedience to the calls *only of God and his country* : for I believe he was so thoroughly sick of the world, even before he ascended to the protectorate, that it had no charms for him ; and that he would gladly, if possible, have escaped the burdensome and dangerous honor, and vanished from public life into retirement and obscurity. And especially long before he left the world, he was subdued and brought to feel this humility and self annihilation. For certainly such a state of mind, and especially of a sagacious, circumspective and experienced mind, may be generated, and has in some instances been generated, witness Belisarius, by a comparative and even anticipated view of the goods and evils of office, that neither honour nor riches, nothing but *duty to God and man* would be left the really influential motive of an office even of the highest power, dignity and

preeminence, I will not say, to wish and desire it, but even to *submit to its burdens* and dangers. God is able to make this possible even to man, and I doubt not it has sometimes been the fact. That men are generally thus affected, I will by no means assert. But among the few instances wherein men have been thus disinterestedly influenced, I do not hesitate to place Oliver ; fully I think evinced in his sensible, intelligent and most masterly answer to the committee of the house of commons in 1657, who waited upon him with the address of parliament, requesting him to assume the office and title of KING. “ I hope, says he, that the honesty of my intentions, and the purity of my heart, will not be mistaken. I hope that neither hypocrisy nor artifice will be imputed to my open declarations, and sincere professions ; declarations and professions, which I make, not hastily and negligently, but with care and reflexion, and deliberate caution, in the presence of Almighty power, by whose providence I have been guided, and in whose presence I stand. I hope it will not be imagined, that I reject the title of KING from fondness for that of Protector, a name and office, to which I was far from aspiring, and which I only did not refuse when it was offered me :—The only motive by which I was induced to engage in so arduous and invidious an employment, was the desire of obviating those evils which I saw impending over the nation. I therefore could not but accept, what the same time *I could not ardently desire*. For nothing can deserve to be pursued with eagerness and assiduity but the power of doing good, of conferring real and solid benefits upon mankind. And surely while the only end for which greatness and authority are desired, is public good, those desires are at least lawful, and perhaps worthy of applause ; they are certainly lawful, if he that entertains them, has, by a long and diligent examination of his own heart, an examination serious and sincere, without any of those fallacious arts, by which the conscience is too frequently

deceived, satisfied himself that his ultimate views are not his own honor or interest, but the welfare of mankind, and the promotion of virtue, and that his advancement will contribute to them." If it be possible for a man in Oliver's situation to be sincere, he might have been that man. We certainly may have sufficient reason to believe it, even though it should never in fact be believed by prejudiced mortals, till the revelation of the secrets of all hearts : when it is possible that Oliver, may be found in this class of undissembled sincerity. To us on this side the vale, it cannot, it ought not to be wondered at, that amidst such high proofs of integrity, there should be found some approvers and admirers even of a character very generally despised and treated with infamy and contempt. There are those who tracing the life of Oliver through its whole career, are convinced that the public welfare generally governed him, that the cause he was in was righteous ; that the principles which actuated his general conduct, and that of his compatriots, were justifiable and glorious ; and that the *purity of his intentions* was conspicuous to the last. On the same principles we may vindicate and justify the Judges, and others concerned in that abortive work, in the great and memorable events of that day.

Oliver Cromwell once saved the nation ; and upon deliberate consultation with both the army and parliament, and with the concurrent hearts of certainly a very large and respectable body, even the main body of the divided nation, devised and provided a very excellent constitution, in the form and spirit of it very nearly resembling that afterwards adopted or conceived by the United States. The constitution by 1654, and especially by 1657, was ripened to this, that the government be a commonwealth ; the national legislature to consist of a protector, and two houses ; all elective and none hereditary.

This constitution, it is said, was the production of three days, and conceived and fabricated by the officers

of the army. Be it so. This redounds to the honour of the army. It has been conceived that the ideas and usages of despotism in military life, ill qualify for just, equitable, civil dominion, and free government. But this instance is in point to the contrary ; shewing the most equitable and liberal polity conceived by men inured to command, and to the arbitrary domination of military life. An assembly of Barons or hereditary nobility would never have devised a civil polity so liberal and rational, so lenient, just and friendly to all, so well adapted to promote the order, felicity and good government of a commonwealth, or republican sovereignty. It is worthy of inquiry, how this singular phænomenon of wisdom arose.

An army conscribed, like the European armies of modern ages, of “ the gleanings of the lowest rank of people, serving men discarded, and mechanics without employments, *men used to insults and servility from their cradles*, without principle or honor, or inducements to overbalance the sense of immediate danger,”* though officered with men of military skill indeed, and well versed in every branch of tactics and in the whole art of war—officers taken from the nobility or their submissive connexions, principled in tyranny : such officers, intired to arbitrary and despotic command of slaves, might govern and discipline an army well, but would give a dangerous tinge to civil polity. But let us choose men, says Oliver, “ warm with regard to religion, men who think it a high degree of impiety to fly before the wicked and profane, to forsake the cause of heaven, and prefer safety to truth ; and our enemies will quickly be subdued.” Accordingly he conscribed an army of men of different description, freemen above the menial feelings and servility of vassals, men of allodial and other property, substantial yeomenry, and intelligent gentry, officered with men of information and principle, and possessed of the feelings of liberty and

* *O. Crom. Speech.*

rational freedom. And when "these men were led to the field, no veterans could stand before them, no obstructions could retard, or danger affright them : and to these men, says Cromwell, are to be attributed the victories that we have gained, and the peace we enjoy." Such men did the American army furnish, men great in the field, and great in the senate. Such men feel and speak the sense of a free community. Such were the men that formed Oliver's policy, and instrument of government. Such an army as Oliver's furnished men of intelligence, ability and political knowledge, of highly improved and scientific characters, who rushed to arms for the defence of liberty, of inseparable fidelity to the public weal, whose interests were essentially interwoven with that of the body of the people ; so that they were, we find, abundantly qualified for an extemporaneous production of a policy, which however came prepared to their hands by fourteen years previous digestion, a policy, which will hereafter become the admiration, the adoption and imitation of ages. But whoever investigated the Oliverian polity, honored their councils abilities and patriotism to contemplative posterity. For in the regeneration of policies, throughout Europe, all will find themselves insensibly led to an assumption of the leading and commanding principles of this policy, especially in elective, and unhereditary representation.

Very different indeed would be the policies devised by the different and separate descriptions of men, into which society in these ages has become artificially divided ; should any one or few of them hear the formation of a polity, it would be very different from one devised by the people or population at large. But very uniform and almost identical would be that which would issue from indivisibility, equality and the united sense of society at large, in every independent community and sovereignty on earth. Human nature and the rights of man would every where, if permitted, speak the same language, the same policy, all around the terraqueous

globe. All nations would agree in the downfall of hereditary government, and in the substitution of elective government. But if particularities should institute policies, they would be different. Let a convention of bashaws and West-India negro-drivers devise a policy, and how different it would be from one devised by the Dixwells, the Hampdens, the Sidneys, the Whalleys, the Desboroughs, and the Fairfaxes? Commit this formation to a diet of Polish nobles, familiarized to sell and transfer their peasants, their stock of men, as their stock of cattle and horses, with the leasing of their grounds, or sale of their 22,000 estates, charged with a population of eight or nine millions, of whom all, but their nobles, devoid of allodial property, and like the inhabitants of the Hebrides or the north of Scotland, tied down and restricted to the territorial domains of their lords, who absorb and devour the fruits of their laborious industry. In a word, let a Congress of European or Asiatic princes and nobles, looking down with sovereign contempt upon their subjects, the numerous depauperated indigent populace; let them, I say, make a policy for dependent millions—How different would it be from one devised by their equals and brethren in general; by those taken, either from the various orders and classes, into which society happens to have become artificially and unfortunately divided, or from feeling, substantial and enlightened characters among them, with here and there a William Tell, a Muir and a Palmer, intermixt among them: no one can doubt the different polity they would institute; no one doubt whose polity would be most friendly to the general rights and liberties of society, to the welfare of nine-tenths of any and every community. Nor indeed need it be doubted which polity would prove the most firm and durable, as well as extensively equitable and just. It would undoubtedly be elective in the one case, and hereditary in the other. The firmness and durability of the former, would infinitely surpass the suppo-

sed firmness and durability of dominion from the permanency and perpetuity of hereditary superiorities. It would be a government of laws, which would gain, not the desorced acquiescence, but cheerful concurrence of the collective body of the citizens, and combine them into a union of force sufficient to support and render it efficacious, and internally fortify the union against eversion, from interior or exterior aggression.

It is easy to try all political characters : Those particularly who have the formation of a polity ; and from thence either to predict the complexion of a polity, or in one new formed, discern the force and design of certain traits interspersed in it. What are the characters and events in history, which they approve or disapprove, or which are to the taste of individuals, or to the collective body of the framers ? Select the histories or anecdotes of despotism, and contrast these with those of liberty. The admirers of the one will instantly be perceived to detest the other, and respectively give different complexions to the conceived polity. Their respective ideas will be respectively stamped upon it. Try all kings and nobles with Cato, Cicero, Brutus and Cassius, in the Roman, and similar characters in the Grecian history ; try them with the events in France, Poland, and the United States ; try them with the history of Holland, Venice, Switzerland—They will uniformly detest these—while the patriots throughout the world will strike unison with all the great characters, and heroic examples of emancipation into civil liberty, and unite in detesting tyranny. Cicero has been obnoxious to nobles, kings and emperors, ever since he boldly forced the way for plebeians through the patricians up to the consulate. They have never been reconciled to such a precedent or example of successful opposition to despotism and privileged orders. They contemplate with an evil eye, with abhorrence, every instance of this kind in universal history. In spite of kings, eloquence perhaps more than republican

sentiments, has procured immortality to the works of Tully, which live in the universal reception of classic reading. But eighteen ages have not sufficed to de-force from princes and hereditary nobles the estimation due to the patriotic merit of the immortal orator ; because he cannot live without surviving an opprobrium to patrician tyranny, and a friend to liberty.

So again monarchs contemplate Jacobin Societies with horror and dread, and this with great reason.— They need not be so viewed by republics. The Jacobin Societies have proved the salvation of France. They have been the bulwark of liberty. Their excesses are to be coerced by government ; but their suppression and extinction is unnecessary and impossible. “ The popular societies are the columns of the revolution.— They shall not be shaken,” said president Cambeceres. Violent and unjust in many things they may be, and so sometimes are congresses, assemblies, parliaments, not therefore to be dissolved, for they may be generally right. Would it be wise to wish the extinction of the winds, which are salutary and beneficial for navigation and for clarifying the atmosphere, because sometimes attended with hurricanes ? They may be set up against a good government indeed, but their efforts against it must ultimately be inefficacious and harmless. Because they sometimes succeed in overturning a tyranny, will it follow that there is even a possibility of their succeeding against a good policy ? The experiment is yet to be made. Hitherto there has existed no good polity to try them upon. In the nature of things they will become self-correctors of their own irregularities and excesses ; and harmonization of the public sentiment must result from their diffusive deliberations. Nay, the strength of a general and uniform support to the administration of a good policy must arise. Their discussions, circulation of intelligence, and communication of light, must eventually form, digest and unify the national judgment. None but tyrants need fear them. The

national convention has not feared them, but rejoined in their support. Congress in 1775 did not fear the body of the people in America, though sometimes wild and anarchical. A policy which shall have sustained their ventilation and discussion, will be firm. The end being answered, and the care of the public consigned into the hands of constitutional government, these societies will spontaneously disappear ; nor rise again unless called forth on great occasions worthy their attention.

I said that men would judge of historical events according as they are principled in politics. Monarchies of all modes are contemplated with a suspicious eye, by communities at large ; which in their turn contemplate republics, of any and almost every form, with attention and pleasure. There once was a time, and it is not yet past, when the sovereigns of Europe could not contemplate but with horror and disgust, the Prince of Orange, and Holland, dissolving their feudal submission to their lord paramount, the revolt of the house of Braganza from Spain, the more recent erection of the self-created kingdom of Prussia, or the self-created republics of Switzerland, and the United States. But all these examples come up into operative and efficacious view in the present age ; and are contemplated with sympathetic consolation by states struggling with the tyranny of kings.

Self-erected sovereignties, whether monarchical or republican bid fair for considerable duration ; while popular societies, are either defeated, or go to rest of course, when their end is accomplished. Their coerced extinction would prove as fatal to liberty and the rights of man, as the forceable suppression or extinction of letters or the liberty of the press. Both ever have done, and ever will do much mischief ; both do infinitely more good : both are the combined conservators of the public liberty, in philosophy, religion, po-

litics. They are excellently adapted to frame the public mind to wisdom, and to an acquiescence founded in diffusive conviction and information of that wherein consists the public interest, the general welfare of society. There is no alternative between their right to assemble, and the abolition of liberty. Extinguish this right in England and in every sovereignty, and the people are slaves. If at any time extravagant, a prudent insertion of counsel, and circulation of it through the popular societies may generally correct and rectify these extravagances, excesses into which they are usually betrayed by false brethren or enemies masqued. It is their unalienable right to meet and deliberate, even for the purpose of systematically altering the policy, provided they peaceably submit to obey the policy and laws in being, until regularly altered by public consent. If assembling even for this open and direct purpose is to be adjudged treason, the change and rectification of the most tyrannous polity can never be effected, but by spontaneous recourse to the tremendous alternative of arms. If the popular societies sometimes err, it is not always, it is not usually from malicious and inimical views, but from defective and partial information among those the best disposed for the public good, or, as I said, from tories, which covertly, insidiously and unawares insert themselves as marplots. If well informed, it is impossible the community at large can be inimical to the public good. Enough of this general disposition for the public good may be found in every community at large, to counteract and nullify the injuries of factions. And the common people will generally judge right, when duly informed. The general liberty is safe and secure in their hands. It is not from deficiency of abilities to judge, but from want of information, if they at any time as a body go wrong. Upon information from an abundance of enlightened characters always intermixt among them, they will ultimately always judge right, and be in the end the faithful guardi-

ans and support and security of government. Nothing will kill a faction, like the body of a people if consulted. A faction may beat a faction, at a pretty fair and even conflict ; but in a fair and full contest, it can never beat the people. The great art of factions is to keep the decision from the body of the people. But let a matter be fairly brought before the people, and they will not only determine it, but will judge and determine right. It is the insidious art of parties and politicians to keep things concealed from the people, or if they are alarmed and assemble, to excite parties, sow dissensions, and prevent as much as possible the question from coming up fairly before them, instead of harmoniously endeavoring in a fair, open and candid manner, to lay things clearly before them, and thus honestly endeavoring to form and obtain the public mind. And thus they ever attempt, and are too successful in deceiving, instead of a frank and open appeal to the people. But shall this cunning prevail forever ? Politicians, with too much reason, say it will. I, who am no politician, but a prophet, say it will not. Almost all the civil polities on earth are become so corrupt and oppressive, as that they cannot stand before a well formed system of revolutionary societies. Those of the United States and France will sustain them without injury or eversion. The reformation of all others, must commence in associations, which by government will be considered and treated as factionary and treasonable, but will enlarge and spread into a system of revolutionary societies. In all states these will be frowned upon, and suppressed as treasonable. Their suppression and persecution will pour oil on the flame. They will burst out again and again, till they will carry all before them, till real treason shall be accurately defined not to the sense of aristocrats or the present usurped reigning powers, but to the general sense of the community. And such a law of treason will be infallibly supported by the community. This done every association will know

what it may, and what it may not do, with impunity. Till this is done, the spirit of enlightened liberty is become so great, and ready to burst forth under oppressive and intolerable irritations, that it will risque all consequences, until all the present policies shall be fairly brought to the tribunal of the public sense. Then no one can doubt the result. Factionary societies begun even with the primary and direct design of overturning government, if the government or polity be supported by the general sense, will fall: otherwise they will bring on and adduce at length extensive discussions which enlighten the public, defeat insidious and partial cunning, and bring forward an open and firm support of good and acceptable government. Should they at any time surrender, or duped and outwitted by counter factions, be prevailed upon to betray the public liberty, the community will deserve slavery a little longer, until again aroused to energy, unity, wisdom. Thus England has now for a century been suffering a national punishment or chastisement, brought upon them by their own folly, for being duped by the insidious cavalier faction, which overturned the happy constitution of Oliver's republican polity. When at length brought to their senses, and a conviction of their national folly, they will break out and burst forth with united and irresistible vigour, and recover and rectify themselves. The French have for ages been duped by court factions, but have at length recovered their national rights and liberties, by a voluntary, united, bold and daring exertion, by an effort which makes all Europe to tremble. So it will be in England. The forcible suppression of societies there will only accelerate their revolution and political regeneration. More must be done for the satisfaction of the national sense and spirit of liberty, than parliament ever can, or ever will do, unless they shall call a national convention, which they never will do. The national spirit impressed with despair of redress, will become desperate. All confidence in parliament lost:

then to your tents, O Israel ! The national interest and welfare will take care of itself ; and this with an unconquerable violence and impetuosity !

The English nation flattered themselves at the Restoration—revolution—accession of the House of Hanover :—Have been deceived and disappointed at each epoch, and find themselves as before, or rather more closely enchained and bastiled. The same conviction seizes the patriots of the present as of the last century. Never has the nation really despaired of all possibility of redress till now. Now at length *nationally despairing* of the present polity, they will be filled with very energetic feelings. They feel anew what was felt of old. New wine put into old bottles, may possibly burst the bottles.

In every state, good or bad, there will always be a number of restless, subtil, crafty, turbulent and ungovernable spirits ; who by writings and intrigues, will be exciting discontent and stirring up mischief : and will molest and embarrass the best as well as the worst administration. Society will always have to encounter such characters. But calm discussion, and giving time for insidious projections to take their course and run their race, they may be wisely managed, contravened and defeated, especially after the public have felt and tasted some of the ill consequences into which they are plunged by such artifices and delusory stratagems. And perhaps voluntary associations, without noticing them as seditious, are as proper theatres for them to display and spend themselves upon as any other. Faction may be turbulent and successful, applied to monarchy and aristocracy—self-defeated, when applied to community at large. Experiments in the old governments, in the Grecian and Roman, in ancient and modern history, will be no precedent to count upon, in judging their effect on the new republican politics.—The public will not be ultimately duped by factions or

factionary societies, though assembling with the greatest freedom. They will be harmless, till they arm, and then they become amenable to the laws, which if made by the public, the public will effectually support, even finally by military coercion.

Absolute monarchs have in all ages permitted individuals, subjects and slaves, to petition their King.—Even the Dey of Algiers, the Sultan of Constantinople, the Sophi of Persia, will receive the petition of slaves. The same thing is permitted in England; where it has hitherto been also permitted, especially since the suppression of villainage, for subjects assembled in popular, and even systematical societies, to petition the King or Parliament for redress of grievances, for or against bills depending in parliament, for or against the repeal of laws already enacted. So far they may go with impunity, and without liability to criminal processes for sedition or treason. This is a conceded right in England. But to assemble for the direct purpose of altering the constitution of King, Lords and Commons, is by statute, sedition, and arming in consequence, treason.—Thus it follows that reformation by the people is impossible. Let the constitution become corrupt into the most absolute and conjunct tyranny, it is however inviolable. There then exists a case, in which tyranny ought not, cannot be *justly* and legally corrected and abolished by the people. Will not the same reasoning apply for the perpetuity and irreformableness of any the most despotic governments? Will not these principles terminate in the universal conversion of liberty, in the universal establishment of universal tyranny? And is there no justifiable expedient, no public measure of redress, whose assumption and adoption may be justified upon the high, transcendant and paramount principles of public justice, right, liberty? If there is, it will lead to and terminate in the justification of voluntary societies, assembled to consult the public good, augmenting, multiplying and diffusing themselves into a system of

popular assemblies, for enlightening, forming, digesting, and collecting the general sense of the community, whose polity needs amendment. It should seem therefore, that however iniquitous and pernicious some may be, yet *all* assemblies for the express purpose of altering and changing the polity, are *not* to be reprobated, as unjustifiable, seditious and traitorous. It remains to settle this point for all nations, that it is as justifiable to assemble for altering the polity, as for petitioning a national council, whose polity and constitution the whole nation approve, without the least desire of subverting or altering it. When this shall have become the universal conviction, national assemblies will become universal : and such polities as will not sustain their revision and discussion must fall. Thus it may be seen all the present corrupt polities are gone. But it is said, by parity, popular assemblies may be instituted against the new conceived polities, in endless progress, *ad infinitum*. Very true : and let them be so. If upon revision, they find the polity sound and good, one to satisfaction, as sooner or later, after a few revisions, they will find, they will of course leave it untouched, return home, report and diffuse and generate universal acquiescence, satisfaction and submission ; and thus strengthen the whole community into one firm and united bulwark for its support and defence. Afterwards they will feel no occasion for popular assemblies, unless upon agitated bills, and very seldom for this end, all readily acquiescing in the determination and enactment of the national council, if frequently elected, which can have no other interest but that of the people. The very notion of petitioning parliaments, national councils, or kings, for rights and liberties, is a badge of slavery, founded on the supposition that they have both the power and disposition to counteract the interest of the governed. This abolished, petitioning dies of course ; and will be securely confined to the wisdom and fidelity of the council. They are empowered, entrusted and

confided in for this very purpose. A good policy will generally enact wise and good laws, to which obedience ought to be exacted, if necessary among turbulent spirits, by the united military force of the citizens, not foreign force. Yet former good legislators have erred, and those of a best polity may err again, and enact laws which ought to be disobeyed and resisted. What must be done in this case? Agreeable to the custom of all the kings and nobility throughout Europe in the middle ages, Evenus, a King of Scotland, caused a law to pass, by which all the wives and daughters of noblemen were subjected to his lust, and those of the plebeians to the lust of his nobility. "*Tulit legem Evanus ut cuius liceret, pro opibus quæ alere posset, uxores ducere; ut rex nuptias sponsorum nobilium, nobiles plebeiarum prælibarent pudicitiam, ut plebeiorum uxores cum nobilitate communes essent.*" Could it be supposed possible that Congress should re-enact such a licentious law in favor of privileged orders, of any description of men, it would exasperate and unite so many plebeian husbands, and in the United States even wives too, in resistance, and even arming for defence, as that it would be wise to reverse it. Here resistance would be justifiable, even to arming and civil war. In this case, whether successful or unsuccessful, the resistance would be just. But from a few such supposed cases and extraordinary instances of error, we are not to infer that we are justifiable in resisting any and every law which we think and feel to be oppressive. In elective republics there is another way always open, which will always be effectual for the redress of even real grievances. Defer and endure till the next election, and then send up men that shall abolish the law. They will either do it, or bring back reasons which will convince their constituents. Numerous have been the instances of this in the New-England republics the last and present century—and the public have been satisfied. There is no need to alter the polity for this end. In an elective republic

factionary resistance and insurrection ought to be repressed by military coercion, not by foreign troops, but by citizens, who will cheerfully lend their aid, in the support of an act agreeable to the general sense of the community. If not agreeable to the general sense, it ought to be repealed, till by becoming convinced of its expediency they shall re-enact it. But it is next to impossible that such a thing can be enacted by a national council standing on biennial, or triennial, or short elections. Dissatisfactions may and will arise, will be manifested; and if general, yet there is no need of arming for resistance, which would be and must necessarily be treated as sedition and treason. If general among the constituents, and they cannot be enlightened to see the reason and justice of the law, the obnoxious act will be reversed, even by the existing senate. If not, the next election will return members who will cancel and rectify the error, if there is one. It is therefore next to impossible to suppose a case in an elective republic, wherein resistance can be justifiable. Because redress may be at all times effected in another and more peaceable and satisfactory way, without endangering the public tranquility, or disturbing the public order of the general government, and especially without eversion of the constitution.

But although insurrection and resistance may perhaps never be just in an elective government; it will not follow but that they may be sometimes justifiable in a despotic government, and especially when the politics and constitutions are so radically corrupt, as that the very polity itself ought to be changed and rectified. And here resistance is justifiable, whether successful or not. Whether the attempt and enterprize shall be prudent and wise, may be a question, when we confer with flesh and blood, but whether just in the view of right reason, need not to be questioned. The politics of all the European nations are become so radically corrupt and oppressive, that the welfare of mankind requires

that they should all be renovated. This would be best for human society. Why should despotism and oppression be entailed to subsequent generations? Why is it not just that the ages of tyranny should be succeeded by the ages of liberty? Under the obstinate and persevering opposition of the reigning powers this emancipation cannot be made but by the people. This must commence, as I have said, in popular societies, connected, spreading and growing up into a general popular exertion. If oppression occasions their rise, they must take their fate. The enterprize is arduous, but combined national enthusiasm in the cause of liberty is of great and awful force. All Europe is ripening with celerity for a great revolution; the æra is commencing of a *general revolution*. The amelioration of human society must and will take place. It will be a conflict between Kings and their subjects. This war of Kings, like that of Gog and Magog, will be terrible. It will, for there is no other way, it will commence and originate in voluntary associations among subjects in all kingdoms. Eluded supplications and petitions for liberty, will be followed by armaments for the vindication of the rights of human nature. The public ardor will be kindled, and a national spirit and exertion roused, which undiscouraged, unsubdued by many defeats, will ultimately carry away all before it. So that popular societies will be attended with very different effects, when directed against an unjust and tyrannous polity, from those which will attend them when directed against a sound and well constructed one. In the one case they will prove innoxious and harmless; in the other alarming and terrible. In popular governments they may sometimes proceed to operate on elections, reverse wise and excellent laws for a time, and lay aside excellent characters, some of their best and most useful friends, and reward their merits with public ingratitude; but they will substitute others in their room, who collectively will do well, and the polity will go on, and the government proceed

regularly, though in new hands. But they will generally preserve a succession of worthy characters. In the other case they will demolish polities, overturn thrones, eject aristocrats, and institute new elective governments—differently policied perhaps, but uniformly elective.

When popular societies are set on foot, if the polity be so well settled to the general sense, as that they shall turn out but a minority, and yet this minority should be so considerable and daring as to arm against the constitution, civil war or a war of citizens ensues, and there remains no umpire, until victory declares it. In that exigency it becomes of necessity that the law of the state should declare such associations seditious, traiterous and rebellious. And the same must take place, be the polity just or unjust, provided the majority of the community concur in it. But it remains to be experimented by future ages, whether there will often if ever exist such a minority combination against a polity once, and especially repeatedly settled with satisfactory revisions, by the collective body of the people, especially where frequent revisions are appointed and provided in the constitution ; and whether an insurrection generally discountenanced, will not give way and be easily suppressed with or without force, and perhaps only by light and the fraternal persuasions of fellow-citizens.—Against a generally acceptable polity, every popular effort of minority associations will die away and come to nothing, terminating in the confirmation and strengthening the polity to an impregnable inviolability. Against such a bulwark of the united people, the efforts of a cluster of popular societies will prove but *bruta fulmina*, harmless, and self-defeated as well as self-created. But if the polity be a bad one, such a cluster may be subdued, may possibly increase, acquire irresistible strength and carry all before it. The little quarrel of the Marli brought on the *bellum sociale*. Not all the Bastiles nor Botany Bays, no enforcement of the existing laws against sedition, can prevent the spread and

progress of this conviction of the possible right, utility and necessity of popular assemblies at least to contemplate the public state, and in given cases even to regenerate the policy. And when this shall have become a little more the general conviction of nations, they will burst forth, and originate and devise modes of public exertion, adequate to the accomplishment of a complete revolution in any polity. Nor will the present age of light and liberty rest in any thing short of this. The nations will never sit down content with this, that a defective constitution is irremediable. They will not despair; they will find a remedy somewhere, an efficacious remedy not to be defeated by aulic manœuvres and circumventions either of policy or force. No measures of any actual existing government can ultimately defeat this. Every Botany-Bay decision in England will contribute to the acceleration and insurance of such an event. And perhaps England will be the next to try the political experiment, after France; even in the sure foreseen road to liberty, being marked with horror and blood. Exasperated despair will be fruitful in expedients, and bold, adventurous, and successful in enterprize. The public sense on the present state of the English constitution must sooner or later be tried. It can be tried only in these assemblies in the nature of things. These might for this end be called by the existing ruling powers. But the ruling powers certainly never will do it. It can then never be done but by spontaneous origination. This is the only alternative. This closed, liberty is gone, tyranny is inviolable. Will the world sit down quiet and submissive under this last gloomy, solitary, swinish conclusion? In the spirit of prophecy, I say, nay!

Should the express, real, true and only object of the voluntary societies in England, or the recovery of *annual parliaments* and *universal suffrage*, they would be guilty of no crime against the laws or the state. But should they arm, that moment it becomes sedition—

and punishable as such—if the existing powers shall prove able to subdue an armed minority, which may at length become an armed people. In this event all is reduced to hostility and civil war : a conflict ensues till victory declares itself. “ Universal suffrage and annual parliaments are legitimate and constitutional objects of pursuit.”

A reform in parliament is necessary in the public conviction, even of the parliament itself as well as the nation at large. How far it should proceed is a doubt, whether by an equitable appointment of the representation to the one hundred and fifty thousand electors of shires, cities, and boroughs ; or by universal suffrage ? Mr. Pitt, as well as Burke, Fox, and others were once for a reform in the commons ; and Pitt publicly avowed in parliament, annual parliaments, and universal suffrage, the very principles avowed in the British convention at Edinburgh. But the French revolution changed their minds, or rather, affected that *now* was not the proper time, or that it ought to be procrastinated to a time, which he now foresees can never be found, which is in effect convincing him, that what he once advocated ought never to be done, because he now foresees it never can be done, without the sure danger of the demolition of royalty and nobility. The haughtiness of high dominion can never give up, until it is too late. It is intended by court politicians that the dissonance of opinion as to the mode of reform shall nullify the whole. They are content to have the question most liberally agitated, but never to be settled and determined : that the partizans should discuss themselves out of breath, as in a chancery suit, and in despair to leave all to an *uti possidetis*. Circulating this *ultimatum* among all the partizans of the ministry, it is purposed and assuredly expected to worry out the public spirit, and go on with the present system, until all shall feel it incurable, and tamely acquiesce.

The national debt is considered as combining and holding all together. It is supposed to be fatally endangered by a revolution, and especially by the change of a monarchy into a republic. But it is as easy to secure a national credit in the one as the other. Holland, Venice, America, and I believe France will shew that national credit, stocks and funds may be as secure in a republic as in a monarchy. If in a revolution it shall be provided that the public debt shall be taken upon the new polity, all would be secure, unless the debt, as it may be, should be so heavy as to be impossible to be supported. But how powerful soever a public debt may be towards consolidating and holding the polity together, there are great exigencies, in which it will lose this force. A debt of three hundred millions sterling did not withhold the Roman empire from dissolution, when its fate was expired. There are certain political tempests which carry away all before them. The national debt of England will not repel a revolution, when the body of the people are brought to exert their force; which they certainly will do, when thoroughly sick of their polity: a crisis very fast approaching.

But if a reform, contrary to all court intention and expectation, must come on; the question will arise, shall the parliament do this, or the people? The parliament may seem to attempt, think to amuse the nation, but dare not to adventure a reform even of one house, and much less of both. And therefore from a concurrence of various motives, both houses feeling themselves to stand or fall together, will unite in the most firm and decided opposition to it, and risque the most sanguinary measures to defeat every attempt, and prevent, obstruct, and suppress every movement efficaciously tending to a real reform; unless it may be they may propose so trifling and so ineffectual a reform, as will rather mock and irritate, than give national satisfaction. Add to this, that though they allow the people to fancy and conceive that they have rights and liber-

ties, and suffer them to boast of them, declaim upon them and glory in them, as long as the politicians see them chained and fettered ; yet really in their hearts and secret counsels, they at bottom most cordially hold, that the herd cannot govern themselves ; and as to participation in government the swinish multitude have no rights and liberties, or which is the same thing, none originally and independently, none but what are held at the concession of the King and parliament. And the few ascending from the plebeians into parliament, soon lose their plebeian principles and become assimilated to the aristocracy. The two hundred and fifty nobles therefore and five hundred and fifty commons, or their venal majorities, become a combined Phalanx against the people, set and firmly united against any ultimate and real alteration or reform of the polity. There remains therefore that the struggle must be given up. It will not be given up. The feelings of aristocracy are totally different from the feelings of the people. The preposterous conduct of the ministry and parliament for now almost half a century have so involved and oppressed the nation, as to precipitate a revolution, A national inquiry is unavoidable. It has taken place in France ; it will take place in every sovereignty in Europe ; it will take place in England sooner or later.—The mode cannot be predicted, saving only that it will be a popular one. A real Saxon meycle-gemot must be resumed.

The English parliament is such a mockery on representation, that the nation will never rest in its present state. And it must sooner or later be altered. The agitations for effecting this inevitable alteration will bring on and advance other political discussions, terminating in a republican renovation. So absurd and disproportionate is the representation in parliament, that it strikes all with disgust, as an insult on the majesty of the people. Of the five hundred and fifty members, it appears that in England, two thousand six hundred and

eleven persons elect and return three hundred and twenty seven members ; and in Scotland, of the forty-five members to represent two millions of people, ninety-eight persons elect one third, and the other thirty are elected by about one thousand four hundred.

When the present national storm is a little over, parliament will attempt to appease the public spirit by apportioning the representation. So far it will be well.— But they will see that this will not satisfy. They will enlarge the election, but will not proceed to universal or general suffrage. This may rest the national spirit for the present, and respite further popular exertions, perhaps for another generation, perhaps not. However they will by both these measures give the precedent of a principle, on which the public will prescribe for further enlargements and amendments. Liberty must be disputed and gained by inches. The cure of the national disorder is not yet effected. The designation of all public offices is to be regulated. If left in the hands of the monarch, sole appointment will ever give him power to command and subject both houses to his will. The possibility of this autocratical controul in the crown remains to be extinguished. The nobility will be with the King. All this will ultimately sooner or later bring on a struggle with aristocracy, which must be fought out with blood, and then the nation will become a republic. Half a century will complete this. Or at least it will be accomplished in some given time.

Politicians should look upon irritated human nature, and consider the extent of passive national endurance. They may view it in the Roman empire, in the history of the reformation from the pontificate, in the English history from king John to this time, in the Baron's wars, in the endurance of the Duke of Alva ; in short in a thousand similar instances in the histories of nations. Look at the French revolution, look at the American revolution ; instead of looking to Cæsar, to the vanquishments of tyranny, to the invasion of the

Gauls by the Franks, the Saxon, Danish, and Norman conquests, the English illegitimate conquest of Ireland, and the other successful conflicts of tyranny : and in numerous other examples, they may find that tyranny, however adventurous, is not always successful. But they will be taught by none of these. They will find, however, that the temerity of incensed Englishmen will, as in the last century, risque blood and every consequence. The conflict once begun, though none can foresee the means, yet it requires no spirit of prophecy to foresee the event. The end will be accomplished, as sure as the downfall of the Roman empire. The road however to this end must be strewed with blood. But will any madly adventure this ? They will. And there must and will arise more Cromwells, Kosciuskos, Whalleys, Fairfaxes ; more Warrens, Muirs, Palmers, and Geraldts, must suffer martyrdom. Three or four more hereditary monarchies and aristocracies must be fought and hunted down, before the rest will submit to the empire of liberty, law and reason. Oh Parliament ! O English Nation ! you have before you to fight out, not whether a Stuart, Nassau, or Brunswick, this or that family, shall reign ; no longer a war among Kings, a conflict between interfering and claiming sovereigns—but a more interesting, real and solemn conflict awaits you—a conflict between the people and sovereigns and hereditary aristocrats, and in connexion with them in England, a plebeian assembly, or delusory shadow of fictitious, popular, unreal representation, tacked on fallaciously to support them. But let us be assured the conflict will be severe and bloody—it will however assuredly take place—and its end will be glorious ! During the fiery trial, we of the United States, shall contemplate this struggle with heart-feeling solicitude, and share with the parent state, from which we still glory to have descended, in the joys and exultations of the final triumphs of liberty. We sprang from England, and still read and study her histories with as much

attention and sympathetic feeling, as our brethren, from whom we have been cruelly dismembered. And our reflexions are made and uttered here, with the most liberal, unembarrassed and unbounded freedom, a freedom unknown even in England, that land, of all the transatlantic regions, the land of free discussion and liberty.

It is not alien or foreign from our purpose, but directly in point to adduce these strictures and observations, or to attend to the present state of things in England and Europe; because they have issued from 1641, and are but the progress of the conflict of ages; and because in their struggles with tyranny, the nation find themselves obliged to recur to the principles of the last century, and resume the work, which Oliver and the Judges once achieved before them, and put into the hands of the nation, and which they were foolishly duped to give back and surrender to the flattering and ever delusory promises of tyranny. If the existing politics will not reform themselves, as they certainly will not, all must come to the conclusion of the enlightened patriots of past ages, † and especially of the last century, who were more deeply studied in the principles of polity and dominion, than the civilians that any other age ever produced. After every the most profound discussion of the subject, every one must finally come to a conclusion, which their progenitors clearly discerned and boldly announced, that in such an exigence, there remains the only alternative of submission or rebellion. And though every other rebellion is unjustifiable, yet such an exigence may be adjudged to necessitate and justify rebellion—for it is said, “rebellion to tyrants is obedience to God.”

† See one of the most profound and learned productions of human nature, an anonymous treatise, *De Jure Magistratum in subditos & officio subditorum erga Magistratus*; printed at Lyons, 1576, in which the limits of obedience, and some of the cases of justifiable resistance are stated.

But to return.—Oliver Cromwell once saved the nation ; and, as I have said, upon deliberate consultation both of the army and parliament, and with the concurrent hearts of certainly a very large and respectable body of the divided nation, devised a very excellent constitution, in the force and spirit of it very nearly resembling that afterwards conceived and adopted by the United States :—“ *O fortunatos nimium sua si bona norint !*” The constitution by 1657 was ripened to this, that the government be a commonwealth, and the national legislature consist of a Protector and two houses, all elective and none hereditary. Herein it is provided, 1. That the Protector be for life. The succession to be kept up by the election of the upper house. 2. That this consist of forty to fifty members, to be also for life, amoveable however for misdemeanor. The succession, either, by the house of commons electing six, out of which the other house select two ; from which the Protector to elect one ; or, if the commons omitted their nomination for twenty days, the lords to proceed, nominate and choose three, out of whom the Protector to take one. 3. That the house of commons consist of 460, triennially elected by the people, in a judicious and proportionate manner. 4. A concurrence of the two houses, by their respective majorities, to make an act of Parliament ; not subjected to the veto or negative of the Protector. This is the outline of the polity.

But like Israel, the nation wished for a King ; wished to return to Egypt. They returned, and God sent them a King in his anger ; they returned, and went into slavery ; felt themselves caught and disappointed, and in twenty years became so wearied out, that the public mind again changed, and became prepared for the partial expulsion of tyranny in 1688. They might have saved themselves thirty years loss of liberty, had they banished hereditation out of the English government—had they persevered in the republican form devised by the discerning enlightened Protector, and those of his

compatriots, ever faithful to their country's welfare.— Had his wisdom directed him to have left his other house elective by parliament, or by the people in almost every mode, as he had made the house of commons to stand on local elections, he would have left a polity so perfect, so adapted to universal human nature, that notwithstanding the ingenious Neckar's allowances for the geniuses, habits, and various distributions of property in nations to be policied into new constitutions, England would never have wished to have revised and altered it. But even his new nobility, although in the first instance by direction of parliament, at his own evocation, and whose succession was left too indefinite, were of efficacious operation, a powerfully controuling balance in the polity of the supreme legislature: and bid fair to have embosomed, and did in fact embosom, more wisdom, as well as patriotism, than Heaven usually imparts to an hereditary nobility, ever ignorant, debauched, effeminate and devoid of understanding, or else counteracting and overlaying the really great and superior wisdom of a small number, a small scattering of sensible and meritorious characters, always to be found among the lords or nobility of every nation. Thus merit would be constantly ascending and streaming up into the national council. This with an elective Protector at its head, had been nearly a perfect policy. Had the Protector lived twenty or thirty years longer, or had the nation been possessed of patience and stability, Oliver's polity might have grown up into this firm and beautiful perfection. May I be indulged with stating my idea of a perfect polity?

Conspectus of a perfect Polity.

We may assume a territory of five hundred miles square, populated with five, ten, or twenty millions of inhabitants, universally free, according to their various industry possessing allodial property. On this field of dominion a polity is to be erected, which they will never wish to alter or amend. It may be a public national coun-

cil consisting of a double representative with a head, all standing upon the election of the community at large ; and so modified as that every member shall efficaciously feel his dependance upon the people at large. Let these branches receive any appellation at pleasure. For the present theory, let them be denominated the Protector, and the upper and lower houses : the one to consist of about five hundred, more or less ; the other of fifty or one hundred, more or less. In this council collectively shall reside, under prescribed and defined modifications, not only legislation, but dominion and supreme government. For this double representation, the populated field of dominion may receive a double partition into five hundred and into fifty districts, consisting as near as may be of about an equal number of inhabitants, subject to revision according to the variation, increase or diminution of population. Each of the five hundred local districts to elect a single representative, for forming the lower house, or a house of representatives of local districts. These will bring up into the national council a perfect information of the local districts. The election of this branch to be triennial.

For the upper house of representatives standing, not on local, but universal election, the fifty larger districts to elect one for each ; but so that each member stands, not on the election of that district only, but on universal election—and that in this manner :—Although the citizens vote in districts, yet they shall vote each for but one member in his own district, and for one in each of the other districts : all the citizens in every district shall vote for fifty members, but they shall be taken one in each district ; so that by these means all the fifty shall feel themselves to stand on universal election. Let the Protector also stand on universal election. A certificate from each district shall be sufficient to ascertain the election of the district, both for the Protector and both houses. The plurality of votes, not majority of all the votes, to determine all these elections. The Protector

to be elected once in seven years : the upper house once in six years, with a rotation as in the Senate in Congress ; and the lower house once in three years. The public good, and permanency or stability of dominion, requires that there should not be a possibility of a total change of the national council at any given time ;—while the citizens will have power and opportunity to make a thorough change, if they think best, within a sufficiently short period for the prevention of public mischief and the security and perpetuation of liberty. The national council thus elected, are to form themselves, and stand completely and constitutionally invested with all the powers of dominion and government.—In them resides the ordinary and active sovereignty of the republic. Except in the rotation in the upper house, none to be excluded from re-elections into either house, as long as he can approve himself to his fellow-citizens. Should it be judged more convenient that the President, or Protector, should stand on the election of both houses, instead of the people at large, it will be perfectly safe, as even in this mode he must feel his dependence not on a part, but the whole people, and cannot fail to feel himself the tender father of the republic at large. A rotation in the lower house is not equally necessary as in the upper house. Death and human versatility will make sufficient rotations in the lower house : besides that the interests of a single local district is but of subordinate importance compared with the universal interest. Changes in this will not be equally dangerous with too great and frequent changes in an house standing on universal election.

In this frame of government, this polity of the two houses, the one will primarily feel the local interests, and secondarily the general interest ; the other must irresistably feel for each and all the interests, not separately, but collectively, and their primary and only motive must be the public good, the universal interest of the whole, or majority of the community. The one

will be the faithful conservators of the local interests, as well as attend well to the general interest also, and in the most cases when his own district is out of the question, which will be the case in most instances, will judge impartially and faithfully for the public good: the other detached from all particularity, can have no object but the universal, or at least the general good, with which his own personal interest is inseparably connected.

The powers of the houses are not mixed, but separate and concurrent. These with the quorum of each to be defined and settled in the constitution. They sit and deliberate separately, and their votes are of independent and separate import. The concurrence of the two houses in their votes to constitute an act, and there can be no public act of the national council without this concurrence. A few other declarations regulating the exercising their powers and authority in transacting business, may be defined in the constitution, the rest may be safely confided to their united wisdom. But in case the two houses should ever hereafter concur in any vote for the hereditation of any offices or their perpetuity in any family line, or for the hereditation and perpetuity of the Protector and upper house, the constitution should be thereby *ipso facto* dissolved. In which case it should be provided and established in the constitution, that the republic reverts to a state of nature; when any of the 500 districts may assume upon themselves to circulate a communication among themselves, and originate by spontaneous delegation from the districts, a *republican convention*, for the express purpose of regenerating the policy and constituting a new republic; and if necessary may arm for the purpose without criminal rebellion.

Before we define the powers of the Protector, and in order to discern what portion of authority should be assigned and entrusted to the supreme executive, we r^y

make an experiment of this policy ; from whence we may discern the utility of these balances, and the obvious preference of the double to a single representation, or instead of vesting the whole government in one house, or a senate or council of one order only of local representatives ; and indeed its preferableness to a single order standing on universal election, modified as above, both in point of ample and accurate information of every part, and diffusing the knowledge of characters among their constituents, for future elections, through the community. At the same time that conjoined with perfect local information, there is provided a natural and unfailing security of fidelity to the public and general welfare. To proceed with the experiment,—Let a bill be brought into the lower house—upon reading it, each member will run home in his own mind, and think how it will affect his own district, his immediate constituents ; and he will be faithful to his district ; this will be his first care. If it does not affect that otherwise than as it is involved in the universal interest, then the public good becomes equally his care, and indeed sole object. Again in this house will unavoidably be room for faction or junction of district or vicinity interests, and clubbing with districts in different parts towards carrying votes. This cannot so easily take place in the other house. The great advantage of local representations, is for obtaining perfect information, and for having the district satisfied that they have a faithful advocate in the national council, for its particular interest. Both these are matters of great moment. But it may be possible, and often happens, that a bill passes in this house rather from a junction of particular local interests, the interests of a part of the community, than from the public good. It needs then to be contemplated and acted upon by a house whose only or primary and governing object must be the public welfare, because it stands not on local, ubiquitous election.—Let the bill be read here, and instead of the members

running to a local or a few local interests, they feel themselves irresistibly constrained to contemplate the whole field of dominion, the public welfare. A bill then having had this consideration and review, and thereupon having the concurrence of the local and universal representatives, may be confided in as having received a well informed and thorough disquisition, and as faithful a decision as can be had from erring man.

And now as the Head or Protector, by the supereminency of his station, may be justly supposed to have a circumspective view of the public interest, especially when furnished with all the lights of both houses, and by his dependence on universal election also himself, effectually secured from partiality, every one will see the safety and utility of another revision by the father of the republic : not indeed to his final negative or veto, which might be embarrassing and dangerous, though not of lasting and irremediable mischief, as he cannot cease to feel a reference to a future election. It will therefore be for the perfection of the polity, that he should have the power of a temporary negative with a limited time, and a reference to a reconsideration with his reasons. He may have discerned something of moment which may have escaped both houses, at least he will have his feelings upon it, and the feelings of a character so situated may not be unworthy the attention of the wisest and most enlightened assembly. His reasons and observations in a revision of the whole, may be found beneficial, and may occasion amendments, or salutary alterations, or even abolitions. But if after this the views of the two houses shall continue the same, and they adhere to their former opinion and judgment after revision, it may be justly confided in, that they are right, the bill having had a due course, and as complete a deliberation and decision as human wisdom admits, before it passes into a public law. Thus these balances in the polity are demonstrably wise, and I think constitute perfection.

By considering the justly elevated situation of the Protector, his connexion with the national council, his relation to the whole community, his being the political head of a distinct sovereignty among the sovereignties of the world, and the communications and intercourse with other states in peace and war, we may be enabled to judge with what power he ought to be invested, without laying a foundation of his becoming a despot.—these powers I shall not detail. Those who frame the constitution will do it with careful attention. I mean only to suggest the outline of the political constitution. He must be the organ of the republic, through which all communications must be had with surrounding states, which Vattel considers as so many moral persons susceptible of a variety of national relations, from whence arise those fitnesses, propriety of treatment, and social obligations which, with the treaties and compacts among these political moral persons, become the laws of nations, founded in principles of moral right, according to Grotius and Puffendorf, and of a rectitude and obligation as immutable as the eternal laws of nature. The whole national assembly will be called to consider these things, and none more than the head of the republic. The command of the navy, army and militia, must and may be safely confided to him, while the national council hold the appropriation of the revenues in their hands. The making of war and peace are both matters of too great moment to be left in the hands and at the will of a single person. It is undoubtedly wise in the constitution of the United States, on these great subjects the President cannot act alone, but must have the counsel and concurrence of the Senate.—The designation and appointment of officers, civil, military, judicial, and in the revenue, would be dangerous in his hands. With this power, like the King of England, he would not fail to corrupt a majority of both houses, and reduce all to a dependance on his will, or the dictature of a minister. The profusion of lower

and unlucrative offices may be left to his direction with safety. But an ample selection should be made of all the great offices, especially of high emoluments, and in general of offices in every department, to the amount at least of three quarters of the aggregate value of all the offices in the republic should be guarded, by the nomination of the Protector and concurrence of both houses. This is a matter of vast moment. It will thus become impossible for the supreme magistrate to corrupt both houses. Other regulations respecting the powers, authority and necessary prerogatives of the protectorate, may be of importance to define and limit in the constitution, while others and perhaps more temporary powers adapted to exigencies, may be safely left to the national council, which by their acts may from time to time impart to him the necessary powers, and revoke them. While a guarded vigilance should be held that so important, and useful, and necessary a character should not grow up to so powerful an independence and controul, as in time to overwhelm and prostrate the liberties of the republic.

It has become fashionable to call the national council, this supreme body by the name of a LEGISLATURE, as if this was their name and principal business. If a perfect and complete system of law and jurisprudence was once provided and established for a state, legislation would be at an end. This was the case in the Mosaic institution, whose laws never needed addition or amendment. God never altered this law from the days of Sinai to the days of Zorobabel. Human legislation cannot be at first perfect, complete and comprehensive. But though it will require some time to investigate and establish a body of laws adapted to the genius and circumstances of a people; yet after a while a system or code of laws will grow up to a magnitude and comprehension of cases sufficient for the administration of justice in the state, and for the determination of all causes civil and criminal. And although mutations and altera-

tions of laws according to the exigencies of society will in some degree be always taking place, yet after a while in a well settled government legislation will employ but a small part of the attention and labors and a national assembly. The other transactions in *government*, and *political-administration*, will soon become far more voluminous than the code of laws or statutes. When the national council act in law-making they are properly *legislators* ; in all other transactions *governmental*.

Future legislators, among other things, it is to be hoped, while they may rectify the whole system of jurisprudence, will particularly correct the penal code which in all nations has been lavish in capital punishments. It cannot be supposed that the state of human society requires the severity of the enacted punishment for securing peace, order and obedience to laws and government. For the conservation of the peace and support of the laws in England, judge Blackstone informs us that one hundred and sixty crimes and felonies are capital by the statutes. And among five or six million people have been above seventy thousand capital executions the century past. In Connecticut for the past century have not been above fifteen or twenty executions, and for all New-England probably not exceeding sixty or seventy ; and the peace and good order of society has been well preserved among half a million to a million of souls.

Legislation and government must by the constitution be ever left with the national sovereignty. But a supreme *judiciary* is of such great and momentous importance that it may be established in the constitution itself. It is the interest of every individual in the community, that there be established one pure and uninfluenced tribunal for the ultimate decision on civil and criminal trials and adjudications. And to this end the constitution should establish it that the judges of the supreme court of the republic should be men of distinguished abilities

and great law learning, and of uncorrupted integrity, limited to judge not according to their discretion, but according to the laws of the land, and that they hold their offices *quamdiu se bene gesserint*: that treason in the protector and corruption in the judges be punished with death. A high court should be provided and authorized, not by the legislature, but by the constitution, for the regular trial of such high delinquents. All other courts for the distribution of justice through the land may be instituted by the legislature.

This is the general idea of a perfect policy. The title or appellation of this public body may be, *Congress*, *Senate*, *General Council*, or *National Assembly*. The name is very indifferent, and will have no efficacy on their public acts and operations. The etymologies of the three last do not primarily lead to power and authority. The *congressus optimatum* brings up with it both power and council united: and seems the most natural for a republican, unhereditary, elective aristocracy.—The whole national assembly is an aristocracy, while in office, not hereditary but elective. They continue in this elevation and superiority to their brethren, while by them entrusted with the high authority, and until, having run their race, and discharged their great and useful trustment, they revert back into the order of common fellow-citizens. This august body during their elevation are to receive all honor and respect, submission and free obedience from the whole union. While in office let them be treated with the honors of the office. There is a weighty objection to this polity. The universal election will be objected to, both for the Protector and the universal branch, as unwieldy, impracticable, impossible. To this it may be replied, that personal acquaintance is not necessary. Information will be sufficient with respect to eminent and conspicuous characters. Experience has shewn us, that the people at large in every the most distant part of the United States, for instance, are universally informed concerning fifty

or one hundred characters, or more, all over the states, among which they are able to make a wise and judicious choice, or election. The men who are qualified for such high stations will soon be extensively known.— They should be those, who either by having been long in the national service, or by some distinguished achievement of public utility, have approved themselves qualified with wisdom, experience, and a perfect acquaintance with public affairs, by which their abilities and fidelity will become extensively known to all the tribes through the union and community. This will supply an ample sufficiency of worthy, patriotic and excellent personages, characters of ability and public confidence, of diffused reputation, and universal notoriety, from which the community in general, will be enabled with good discernment and judgment, to elect those superior and universal members.

Finally, let that inestimable jewel and preservative be inserted in the constitution, the power of REVISION, alteration and amendment, after certain stated periods, until the polity become so perfectly satisfactory, as that to the feelings and sense of the community, it needs no further amendment : when the use of the revisionary powers would go into desuetude of course ; unless called up at distant periods to rectify and reform corruptions, which may in time be insinuated into the administration of the best polity.

This is the view of an utopian polity, which, whether right or wrong, will always rest in harmless idea. Its refutation and absurdity will never appear by an actual experiment, for such an experiment will never be made. Not that it is impossible : for notwithstanding the ingenious ideas of the great patriot Neckar, that republics must be differently policed according to the existing diversities of national society on which they shall be formed, as to customs, laws, usages and manners, ranks and orders, yet this polity may be success-

fully applied to all the kingdoms, empires and sovereignties on earth, under all their existing diversities—leaving otherwise all the distinctions and tenures of property, dignities, titles, honours, orders and inequalities, comprehended and untouched, even the hereditary honors, if they have not power combined with them: only adopting *liberty* and *equality* to their extent, that the access up into the supreme national council be open to all the *inequalities* of society, so that upon constitutional election princes and nobles, dukes, marquises, earls, viscounts, barons, governors, generals, ecclesiastics, civilians, merchants, gentlemen, yeomen, professional characters, and the literati, are all equally eligible, and all meet and sit and act together as equals, with a “*Nos hic una sedemus uti Barones.*” As all grades of nobility are *pares* in the house of nobles, so nobles and plebeians *pares* in national council. The house of commons in England, and the national assembly in France have exhibited and realized this equality amidst inequality. Adopting this commanding idea, this polity might be readily and with facility applied to all the diversified kingdoms on earth. As easily might a republic be formed out of the intricate and confused hotch potch of the Germanic empire, and the empires of Turkey, Persia, or Indostan, as out of the plain co-equal yeomanry, freeholders and citizens of the United States. All the diversified nations are susceptible of a regeneration into the same uniform republican policies, with a supersedure indeed, but not destruction of orders. But all this will be treated and rejected as only the impracticable theories and speculations of the study, the fanciful reveries of recluse and unexperienced life. Indeed so many existing circumstances must and will be attended to in the reformation of the old, corrupt and worn out governments, and in the forming of new ones, or in the regeneration of the sovereignties of the world now already begun, that my idea will not, and in effect cannot be realized. But perhaps an approximation

to the leading features and capital principles of it, especially as to *election*, banishing *hereditation of power*, and providing *revision*, already begun and arisen among the nations, begun in the unsuccessful efforts of 1641, and successfully realized in 1796, may restore the present policies to a good degree of amelioration, effect the ends of liberal, efficacious, just and happy government, and secure the reign, the dominion of law, rights and liberties, as far as can be expected in the present state of man. But this perfect idea will never be realized. The nearest resemblance to it, which I have found, among all the policies that have existed since the first dispersion of the nations, was in the most beautiful and well organized republic of Ireland, spontaneously formed by the emigration from Norway, and flourishing in the tenth century.

Undoubtedly in the future structure of policies, there will be a great variety : while most probably hereafter they will all agree in the rejection of monarchy, and in a government by a national council, or senate of one or more orders, constructed in some mode or other. The less complicated the more simple, systematical and intelligible to the body of the people, the better. It remains to be verified by experiment, whether a republic ruled by one order of co-equal senators, and this elective, can be permanent and lasting. At present the speculation is that it cannot. But, the tumultuous, self-defeating confusion of the little republics in Italy notwithstanding, I believe future trial will exhibit a proof that its durability is possible, and that it may well answer the ends of liberty and permanent government ; and yet be by no means equal in excellency to the balances of two orders in the national senate. The policies of permanent republics may be as various, as those have been of permanent monarchies. The ten existing kingdoms of Europe are all differently policed, no two similar, least of all exactly alike, unless in monarchy.

Of the half a dozen republics in Europe, no two are alike, all are of diversified policies.

A republic safe for liberty, laws, and energetic government, may be formed upon different modifications. It may be formed of elective or hereditary aristocracies, for while in office and cloathed with power and authority, they are an aristocracy, whether an elective or hereditary, and the constitution may be equally permanent. The senate may consist of unelective hereditary patricians, as Venice, which has subsisted for ages, with great firmness and wisdom. Or it may be formed of one order elected from the people or citizens of the community at large, and this for life, the succession in case of vacancies by death to be filled by election of the people. Or this senate of one order may constitutionally stand on triennial, septennial, or frequent elections, the elections to be made out of citizens of all orders and descriptions promiscuously, or all to be indifferently eligible into the national senate of one order. Perhaps something like this may be that which will in fact take place. Or a policy may be formed in another mode. The whole body of the citizens may be resolved into centuries and classes, as among the Romans,† and balancing one another: that is, there may be one class of hereditary nobility, another of citizens of high opulence, a class of merchants, and classes of other descriptions, and possibly in some states the clergy and universities may make another class: and all these to be represented by election in their respective classes, and form a national senate of two, three or more negatives, or vetos, as once in Sweden; or form one co-ordinate body, or otherwise be differently modified, as circumstances and prevailing coalescences may indigitate and point out, or as may arise on contingency and compact and submissive acquiescence. But an elective senate of two balancing orders, standing on *local* and *general* elections, would be the most simple, intelligible, and perfect. Howe-

† *Livy*

ver a republic, and even a monarchical republic might, in some or any of these modes be constructed, in which liberty and the public weal might be to a very good degree secured, and established with a very durable satisfaction. We all have our feelings, and national and perhaps speculative preferences. Among those who are sincerely principled and disposed to liberty in general, one from education or judgment will feel a list to monarchical and aristocratical ideas, another to mixt and balancing republican ideas of equality as to eligibility. The future formation of policies may possibly exhibit several of these diversified forms. Which will really approve itself the most friendly to right, liberty, and the public weal, must be left to the experiment of two or three ages ; when upon a comparison and history of all these liberty policies, it may appear which is best. I that have been educated in republican ideas, as was Vattel, and at a distance from nobility eminencies, feel very well satisfied with equality in the national council, and think it bids fair to succeed the best. Montesquieu, educated in high monarchical and aristocratical ideas, could not enter into the spirit of a republic. A genuine Englishman will ever think differently on the subject of rights and liberties from the rest of the world. There is no umpire in this matter but the experiment of ages, after various polities have been tried. Monarchical polities in all their variety have been abundantly tried ; republican polities remain to be tried.

Far am I from thinking that the wisest and best policy can escape the impressions of corruption. Let us not expect but that it will break in with a constantly diseasing influence. We have only to find which is susceptible of the least. Whatever the polity be, wherever the power rests, whether in a monarchy, aristocracy, or the people, let us count upon it, let us be assured corruption will apply itself with an insidious and equal dexterity. My only hope is, that it may be en-

eruated by having a large and diffusive object to spend itself upon, and by the frequency of elections. Even in a republic universally elective, great will be the corruption, in defiance of all laws. Nobles and men of opulence, as well as indigent popularity, by money and intrigue, and disposition of offices through union of factions, will have full and overbearing weight, to render into the national council men whose personal interests will not coincide with those of the public. One opulent man will corrupt or influence a thousand plebeian electors. We see it in the English parliament, where popular corruption constantly renders a very great number of nobles into the house of commons, as well as that of the lords. Already of five hundred and fifty members, two hundred and fifty, perhaps two thirds, are noblemen, and of enobled blood. And it may possibly come to pass, that no longer shall the commons be represented by commons according to the original intention of that house, but the commons be wholly represented by nobles, English, Scotch, or Irish, so both become a double house of nobles, one hereditary the other elective. A similar corruption is taking place to at least in a small degree in the elections of the United States. Our only safety is in diffusing light and knowledge through the common people and body of the citizens at large, to guard them from being bribed or influenced against their own interest, for each citizen has an interest in the public interest; and by making the object, on which corruption is to operate, as diffusive as possible. On the whole, we seem to stand the best chance of gathering the greatest quantity of wisdom and public spirit into the council, by *election*, with all its corruptions, than by *hereditary* ignorance and folly. And under all the popular mutabilities, a succession and permanency of wisdom and patriotism is far more secure and certain in an elective, than hereditary aristocracy.

I have hitherto said nothing concerning religion, which seems to be agreed to be shut out of modern po-

licies. The mischiefs of sectarian tests, the injustice of the elevation of any one sect in particular, to the exclusion, disfranchisement, or destruction, or even molestation of the rest, as in England, Poland and Holland, have inclined all to a growing concurrence in leaving them out of civil society. And some enlightened minds have proceeded the lengths of so daring a liberty, as even to expunge the existence of a God out of his own creation. A very liberal Catholicism ought certainly to be cultivated among all sects of christians, upon the principles of policy as well as of our holy religion, our common christianity. But I do not see that a christian republic ought either to renounce christianity, on the one hand, or on the other hand, to extend charity to the equality, indifference and nullification of all religions. I am in decided opposition to the deistical ideas, which have usurped too much influence in the reformation of politics at this day, as if to put heaven to another trial, whether it can maintain christianity, as it did the three first centuries. Christianity will uphold itself, be the policies of states as they may. But a christian state ought expressly to acknowledge and embosom in its civil constitution, the public avowal of the being of a God, that Most High and Holy Sovereign, upon whom all depends, and the avowal of christianity. In this period, of taking great liberties with the person and religion of Jesus, of conceited wisdom, of bold and illiberal invectives against revelation, during the present rage and enthusiastic mania of deism, I fear not to risque the offence and vociferous repudiations of the disciples of the open Voltaire and Rousseau, or the covert deistical Gibbon, notwithstanding their public honors in the recent apotheoses of the newly resumed ethnical idolatry, and their reposition among the collection of Gods in the motly pantheon of the Temple of Reason. The blaze of this little political diaspora of extravagant and self-opinionated philosophers (a fraternity bringing that honorable name into contempt, as it did in the

fourth century) will, like other momentary lamps of error, burn down, go out and vanish ; and the world, instead, of public conviction or general conversion, will soon write upon it, *mene, tekel*. These men of easy virtue, and generally of easy morals, from insidiously inserting themselves into the various departments of the political administration of states, will soon find it expedient in a christian community to bend and mask their principles, under the pretext of becoming favorable to christian morals, and perhaps to become hypocritical advocates for the cause of the Redeemer. Much better however for a christian republic, to take care in their elections, that they are ruled, not by covert deists, but by real christians, rather than by dubious characters ; characters whose covert duplicity cannot but often break out and discover themselves on a thousand occasions.

I am the more open and explicit upon this subject ; for it would ill become me, who, by the grace of God, have been snatched and rescued from deism, by the weighty, the prevailing force, the omnipotent convictions of truth, to apologize to men of half finished disquisitions, to the ignorance of my brother sinners, or even to the most enlightened philosophers of deified reason, for most freely and openly avowing and advocating the cause of revelation. I make no apology : I temporize not in concessions to the learned or unlearned.—After having been by heaven carried through the whole inquiry, through the series and train of proofs, up to conclusive and certain demonstration, I submit not to the supposition of uncertainty, or of the possibility of mistake, in a matter of such superlatively HIGH PROOF, and of as certain evidence, as that for the existence of a God. I could as easily apologize for believing there is a God, as for the belief of christianity. Under demonstrative conviction of both, my mind, my conscious intelligence, especially at certain times of intense contemplation, struck and overcome with the powerful

impressions of evidence, could as easily and readily give up the one as the other. I could say as truly under full perception of its truth, that the pythagoric problem, or the highest demonstrations in Euclid, were dubious and false, as that christianity is a dubious and erroneous illusion; when the conscious perception of my mind sees and knows, that it came down from the God of infallible truth. That great jurist and civilian, Minutius Fœlix, could tell these men of light and reason, a Tertullian, that learned jurisperite of Carthage, who resigned the toga of the forum for the sacerdotal pallium, could tell them, that greater jurist than both, I mean Father Paul of Venice, and a greater civilian and historian than these, the immensely learned Selden, characters which, for comprehensive collocation of evidence, deep discernment, solidity and accuracy of judgment, would weigh down a thousand Gibbons and Montesquieus, and others of superficial and cursory discussion of the subject, a subject however whose evidence lies equally level to the capacities of the vulgar and learned, in this as well as the apostolic age:—these, I say, can tell us, that the evidences of christianity have blazed conviction into their minds, with as clear and irresistible a force, as those for the being of a God. The single fact of the resurrection and ascension of Jesus supports the whole: and this is as highly proved as his crucifixion, and is as indubitable as the existence of a God. The resurrection of Jesus being established, the whole fabric of revelation is supported thus.—None can doubt but that Christ and his apostles believed the inspiration of the whole old testament. If God should raise up an holy prophet from among men, which deists will allow possible, and inspired with documents and authority from on high; should he lay his hand on Moses and the Prophets (it would be believed should I say, on the writings of Rousseau and Voltaire) and in the name of God announce them inspired, their inspiration would at once be authoritatively settled, and even

deists would candidly renounce and give up the contest. Now Jesus was that holy prophet, evidenced by the miracles of his life, passion and resurrection. He and the disciples have declared this of Moses and the prophets. Both their antiquity, authenticity, and real inspiration, are thus at once settled and ascertained.—Those who have got so far as to believe this, will have no difficulty as to the inspiration of the New Testament. They will easily find a way to get rid of all their scruples and cavils at the bible. I will freely and cheerfully trust them with themselves, only admitting the resurrection of Christ with all its circumstances and connexions, knowing assuredly what will be the result, even nothing less than a firm and indubitable belief of revelation. But at bottom, none of the deists believe the fact of the revelation of Christ. This is the great difficulty with them.

If they receive a profusion of smiling indulgence, and even the most cordial and rapturous applauses, for perpetually interlarding their writings on policy, law, and government, on secular and political history, with foreign matter, with humourous invectives and sarcastical percussions of revelation; they can have no just objection at receiving in return the far more weighty, vigorous and repulsiory reprehensions of revelationists. *Hanc veniam damus petimusque vicissim.* I have read most of the deistical authors, or at least so many of the principal ones, that from thence, and my own speculations and feelings, I conceive myself possessed of all their arguments, and of the whole force of deism: and I never found one that I thought had digested the subject, any more than Cosmas that of the sphericity of the earth, on which he wrote so zealously, learnedly and voluminously, to no other effect than to display erroneous literature, and a pious but intemperate ardour on a mistaken subject, of which he was finally ignorant. The same with deism.

If christians or deists should believe the resurrection of Lazarus, they would not therefore believe him to be a prophet. Hence it is said that miracles, if facts, do not prove revelation. I attempt not the refutation of this consequence, which however admits of conclusive refutation: but say that, this notwithstanding, if deists believed the resurrection of Jesus (and especially if in conjunction with this they also believed the reality of the three years and a half miracles ascribed to him) there is not one of them would hesitate to *believe* and *know* him to be a prophet. Never was there a believer of the resurrection of Christ, who doubted the history of his miracles. With such an one all the critical *ratiocinia* on the invalidity and conclusiveness of miracles, would evanish. They would consider, not the *nuda miracula*, but the connexions and purposes with which they were operated, and become abundantly satisfied. I never read of but one man, R. Becai, who believed the reality of Christ's resurrection, that did not at the same time believe even the Messiahship, and he was convinced by it that JESUS was a *holy prophet*. If therefore his resurrection proves him a prophet, it establishes the whole superstructure and system of revelation. Without being necessitated to it; I however rest the whole support of revelation upon this single and most momentous fact.

The rise of deistical characters into supremacy in European and American politics, † gives them an eclat, which is improved towards exciting a general despair of the christian cause, and towards a popular persuasion that deism is speedily becoming, if not already become generally prevalent throughout Christendom. But without observing the providence and promise of God is against it, as soon might we abolish printing, letters, or the Newtonian astronomy. Indeed the recent transactions which have been suffered to pass in the national councils of France, have countenanced this idea, and are considered as implying that they have generally

† *Neckar*

abandoned religion there, as well as in England and Germany. But is this implication just? Though they suffer atheists and deists, and unprincipled characters to join in the fighting their martial and political battles, in supporting what they are all concerned in as a common cause; and the nation may have gone too far, as they certainly have gone too far in gratifying and indulging this licentious description of men, in some of the measures they have brought forward, for the insidious abolition of religion, and the re-establishment of ethnicism; yet I make no doubt, they deceive themselves and the public in representing a general defection from religion.

Perhaps the picture which the Abbe Barruel has given of Paris, may apply to London, and the other capital cities of Europe. "The nobility of Paris too generally supported the doctrine of these sects," meaning the atheistical and deistical sects of the philosophers, "because they had long adopted the dissolution of their manners. They abandoned the churches to the people, instead of encouraging them by their example to frequent them: servants mimicked the vices of their masters, and the contagion soon spread to the humble cottage of the peasant. The citizen, the merchant, and his clerk, all affected to be witty on religious subjects. The magistrates, who were themselves not free from infection, winked at the infraction of the laws, and suffered the poison to spread through all ranks of the people. France was sinking into an abyss of impiety and corruption.

"The clergy strove in vain to stem the torrent.— They were not all exempt from the vices of the age.— This order of men may be ranked in two classes: the one little acquainted with the duties of the priesthood, bore the name and part of the ecclesiastical dress: too dissipated to be confined to the service of the altar, they were not inactive in soliciting the favor of courtiers who

had the nomination to church preferment. They were a scandal to religion, and dishonored the cause instead of supporting it.

“The other class still more numerous, was composed of priests employed in the care of souls and of ecclesiastical functions. This was properly speaking, the body of the clergy. They were generally well informed of their duties. If some of them panted after the reins of the church, the greater number were seriously attached to the faith, and very few seemed disposed to betray it. The generality had not been wearied with religion. Sophistry and impiety had infected a great number in every class of citizens, but still the French people in general were sincerely attached to the catholic religion. Nothing could reconcile them to the political revolution, but the strongest assurances, that no changes should be made in its doctrine or worship.”*

This is agreeable to an account given me by M. Marbois, secretary to the Chevalier de Luzerne in 1779.—In a conversation with him, I asked him whether Deism was so prevalent in France as that the body of the nation had become impregnated and carried away with it? He then replied that many of the nobility and dignified clergy indeed, with others of the higher and lower orders freely and openly went into it; but that the most of the bishops, and the body of the ecclesiastics, with the main body of the people, were not only not deistical or disbelievers of revelation, but were even, as he expressed it, superstitiously devoted to religion. Accordingly of one hundred and thirty-eight bishops and sixty-four thousand curates or parochial clergy, only five prelates, and perhaps not a sixth of the clergy, took the civic oath, the rest refusing a conformity to the new civil and ecclesiastical regulations; which would scarcely be credible had they been effected with the pliable indifferentism which a general deism would have generated. And the very general aversion of the people

* *Barruel's List. French clergy, p. 6. 22.*

at the thoughts of parting with the parochial religion throughout the realm, and the immediate necessity which the politicians saw of supplying the derelict parishes with a new clergy, and leaving the people to enjoy their old religion; evince that the body of the nation were not become deists.

Many data are necessary towards *judiciously* forming general estimates. Let the matter be fairly and accurately explored, let it be brought to the trial, let there be a perfect liberty of declaring for and against christianity, without incurring penalties or the loss of immunities, place the mind in the most perfect equilibrium and deliberate freedom, and examine hearts; it would soon be found that the collective aggregate of this learned, this philosophic and licentious description, would prove a small and inglorious, though brilliant minority: and that so strong and so general an adherence to the gospel would appear, that of twenty-five millions in France, above twenty-four millions, and perhaps nine tenths of the other million, would now be found christians. From the unhappy omission of the existence of a God, and of christianity, in the constitution of the United States, through deistical influence, and that the road might be kept open for deists to ascend into Congress, though to do the Convention justice this was not the principle that actuated them: but from this omission however effected or occasioned; as well might it be inferred that the inhabitants of the United States were generally heathen, generally atheists and deists, when nine hundred and ninety-nine out of a thousand would shudder at the thoughts of renouncing their Redeemer. So they are generally tenacious of christianity in France, both from the habit of ages, and from the proofs and convictions transmitted with christianity.— And if the subject was examined with attention, I doubt not the same would be found to be the fact thro'out Europe and christian America. Be assured that christianity will ever, and every where find able, learn-

ed, potent, weighty, and in the conflict irresistible advocates and defenders. The ultimate decision must be referred to futurity. For a long time during the present æra of conflict, as in that for establishing the republics of Poland and France, and as among the combatants in the pontifical controversy, the trumpet of victory will continue to be sounded *ex utraque phalange*, on both sides. In the mean time the defenders of revelation have no reason to be ashamed of the proof of their armour, or of the goodness of their cause : and may console in it, that among all the defections, this of renouncing the gospel will be the last to become general in Europe or America. Would to God, we all lived it better. Sufflated bubbles of science and conceited wisdom, some balloon geniusses attack, impinge upon it, and fall one after another. The more christianity is attacked, the more firmly it stands, with an increasing and growing strength, not on power, not on the support of temporalities, or civil government, generally more fatal than beneficial, but on the calm, and weighty, and irresistible convictions of truth. Deism, like the Serpento, will spread and die, will blaze its day, overspread Europe and the world, spend itself, flit away and vanish from the globe, like the ethnicism of ancient, or the tyrannies of modern ages. And its great and shining advocates will, in the future histories of nations, rank with the Democrituses and Pyrrhos, and other philosophical flambeaux of the luminous Grecian ages. These, with the other eminencies of fallacious delusion, will be given up in the ages of light and reason ; which will marvel that preceding erring ages should be caught with those flimsy delusions, which by the weighty blast of truth, will eventually, like the thin gossamer, be dissipated and puffed into their great and unimportant nothings.

Let us be assured that the christian states are not going to give up religion. Nay, it will be, it cannot but be, with literature, justice and moral rectitude, patronized

by the civil powers themselves. Let the deistical politicians bring the matter to a crisis; let them adventure the trial, and assuredly they will not fail of receiving ample satisfaction on the subject. *N'en doutez pas, Quintius, la Religion a ses Heros. Polignac l'Anti-Lucrece. L. I.*

I have finished my idea of a perfect republic. This I believe to be the arrangement of the grand monarchical republic of the universe: with this difference, that in the one immense, all-comprehensive government of the Omnipotent, the power emanates, descends and spreads abroad, from the INDEPENDENT UNITY, and underived source of all power and authority; in the other, in our little minutesimal polities, the power is left and ordained by the God of nature to derive from God, and to ascend through the people, up to the sovereign council, and from thence, in its beneficial influences and operations to be diffused through the community. Other important matters here omitted, will fall in as auxiliary and supplemental, and perhaps with considerable admissible variety, in constructing and constituting this polity, this edifice of public liberty. But it is conceived these are the essential, and I believe, all-comprehensive outlines of one, which would approve itself a government, not of will, but of laws; wherein the liberties and rights of mankind, both personal and social, would become too firmly established, ever to be overthrown: for confident I am, that upon experiment, it would gain the universal acquiescence and confidence of all embosomed and comprehended in it.

Comparing with this the Belgic, the Hoelvetic, the Venetian republics, or the antient republics of Grece and Rome, or the modern ones of France and Poland, and Egypt, with the monarchical republic of England, for according to Sir Thomas Smith this is a republic, and especially that of the United States of America; every one will easily perceive, what ideas I must have

with respect to their different approximations to this system of perfection. And what I had principally in view, they will easily perceive and see the reason why I should entertain so high an opinion of the safety and perfection of Oliver's republic ; which I must think will more and more approve itself to contemplative posterity, to have been excellent, and worthy the great, comprehensive and deep discernment, the noble efforts and exertions of so great a genius as Cromwell's.— No wonder he was enamoured of it, idolized it, and rejected a crown for its sake. No wonder he was, with Cato, grieved, when he foresaw the certain ruin of so noble a fabric, so glorious a cause. Examined in this view, we shall perceive the necessity of the bold, adventurous and heroic measures, of first bringing the King to justice, and afterwards of dissolving the long and self-perpetuating parliament. And in a word, the justice and rectitude of most of the infractions and violations of the corrupt order of a despotic policy, that on its ruins so beautiful a fabric of liberty might be erected. And when in the same light we examine the cause of the Judges in the high court of justice, we may at length see them vindicated, and completely justified.

We may fault the tribunal of Charles I. and fault the judgment : while there are and will be those, who will believe of both, that they were authoritative, just and right. The republic of France is suffering the same public obloquy at present ; but they may hereafter be judged to have set forth and exhibited an heroic instance of public justice, for the terror of Kings, which may learn them to transact in future with their subjects with fidelity and sincerity. If two things appear proved of Louis Capet, a sovereign justly esteemed and loved by America, his fate was just. If he secretly coincided, negotiated and intrigued with foreign cabinets, excited, abetted and promoted the coalition of foreign powers, for the express purpose of bringing a combined army of 80,000 men, against his own republic, with

the direct objective purpose of its eversion : and if he paid 3000 forces, or the Swiss guards at Coblentz, in that army *while in actual invasion*, he was guilty of treason, *Traditionis Reipublicæ reus*. Now the national convention of 750, was assembled from the 83 communities, into which France had been regularly and constitutionally partitioned, and by them expressly and intentionally charged and empowered to three important works.—1. To form a constitution for the public reception and ratification. 2. In the mean time, upon the voluntary dissolution of the national assembly, to take the whole government, the national defence, the whole administration, civil and military, into their hands.—And, 3. To judge the King. They were a new tribunal indeed, and very differently modified from any before erected on earth ; but certainly, if twenty million people could regularly elect, legitimate, authorize and empower one, this was justly and legitimately vested with this august power and authority. Its regularity and authority cannot be disputed. It was doubted but by few of the members themselves. The only remaining question then is, whether they judged right, whether they did justice ? All the world pitied and compassionated the mild and clement, the misguided, the unhappy Louis. But what faith, not compassion, in the ears of Judges, but justice ? Did he, or did he not, thus betray his people ? Seven hundred men examined the evidences, and passed sentence upon him. Perhaps thirty or forty were intimidated and awed by the populace, or the Mountain ; but 700 were unawed ; they freely coincided with the very general sense of the nation. Can we suppose they were all devoid of wisdom, or so blinded with passion, as to be unable to judge on the evidences of facts ? No profound law erudition was requisite ; but if so, they had it : they embodied a treasury of law, wisdom, and criminal jurisprudence, in that illustrious assembly. It is impossible to conceive 700 men, upon deliberative enquiry, unanimous in judging a fact,

unless they saw the evidence. The instance is not to be found in the history of man ; it is impossible. Nor did the King's defence deny the FACTS, but *eluded* them by ascribing them to his ministry, though his own signatures were sufficient. Could he have shewn he had not been privy and knowing, and by his own overt and real acts consenting to and approving his ministers, he would have stood acquitted, approved and vindicated, by that assembly, and they, and the sympathizing republican world would have rejoiced. But after a solemn enquiry and deliberation, the question was put, " Is Louis guilty, or not guilty of high treason, or in other words, of conspiracy against the liberty of the nation, and of attempts against the general safety of the state ?" Of 735 voters, of which 42 were absent, 693 voted for the affirmative, and sentence was accordingly announced, " guilty." Such a concurrence I think impossible on deficient evidence. " I know, said O'felin, that Louis paid his guards at Coblentz ; I do therefore pronounce him guilty." Said Lafource, " Louis must either reign, or be put to death. I vote for death." Said Anacrarhis Cloots, " In the name of the human race, I vote for the death of Louis." Thomas Paine, " I vote for the provisional confinement of Louis, and for his expulsion after the war." This was humane and compassionate, the other just, though strict and rigid justice. It would have been humane and compassionate, it would have been magnanimous and safe, to have found him guilty, dethroned, and pardoned him, and out of respect for a family they had honored for ages, and in pity to the mis-step of an embarrassed, and otherwise clement and just King, to have settled upon him a pension of £50,000 a year, turned him loose among his brother Kings, and left him at liberty to dwell in France, Germany, or any other part of Europe ; and risque his stirring up princes, who could have done no more with their united strength or impotence, than they have done, and that most direct-

ly, to this only good purpose, of accelerating the emancipation of nations, the humiliation of Kings, and the downfall of Kingship, throughout Europe.

After the almost unanimous vote of "guilty," the question of punishment arose: and after a discussion in an assembly of 722 voters present, besides others who voted variously, 319 voted for imprisonment and banishment, and 366 for death; and of the other 34, all but two for death with delay. Finally, of 748 members, besides those who were absent, and those who did not vote, 310 voted for delaying execution, and 380 against delaying it. The sentence was executed, and the King was decapitated January 21, 1793.

We ought to view things in a just and candid light. It is a great thing to see through an enterprize, and to anticipate consequences. The truth is, that Louis was of lenient principles in government, and was disposed to yield to his subjects a rational and less despotic government than that of his predecessors, and to come into a plan and measures which would give satisfaction to his subjects. Whether this was owing to his contemplation of the abstract principles of government, so liberally discussed in the present age, to his view of the comparatively happy government of England in his vicinity, or to the principles of the American revolution, or to all these collectively, so it was, that he wished to be an Antoninus, and to govern with lenity and wisdom.—There was a time when Louis XVI. and the Emperor really had these beneficent ideas, and were endeavoring to carry them into execution in the happy amelioration of their respective governments. The difficulty of enforcing the registering of royal edicts in the parliaments of France, and converting these, like the antient imperial edicts, into laws, usurping upon and superseding the antient *jus civile*, and giving efficacy to laws dictated by the will of the prince, appeared to him so arbitrary, as to induce him to adopt a method in which

the laws should in fact be founded in deliberate wisdom and consultation of the minds of the public, and that in effect the public should have an efficacious share in the general polity. This by the advice of patriots he thought might be accomplished by convoking the old assembly of notables, or more conspicuous and influential personages of the third estate of the commons, as well as of the nobility and dignified clergy. Neckar persuaded him that with respect to finance, taxes, revenues, and the principal general laws and rules of administration, this would give satisfaction ; though herein he misjudged. Thereupon the King assembled the notables, and constituted a national council of the efficacy of three estates, the King, the aristocrats, or nobles, and dignified clergy, and the tiers état; or third estate of the commons. Immediately they were disposed, instead of an amicable consultation, in the first instance, to throw themselves into true balancing bodies, the nobility, the clergy and tiers état. If they sat in three chambers, the nobles and clergy would always out vote or controul, and the others become subservient and overruled cyphers. Here the separation of the nobles and plebeians began. Both divisions contained ecclesiastics and civilians ; most of the dignified ecclesiastics took side with the nobility ; some of the nobility laid down their honors, and in equality took side with the third estate.

Before I proceed, I will collect and throw together several disconnected extracts from the history of the French revolution by Rabaut, and its continuation which, under different aspects and applications may cast light on the several events in the great political phenomenon of France at the present day.

“ In fact, what an astonishing combination would a minister, nay a monarch, have had to encounter.—*Sixty thousand nobles*, possessed of all the connexions of the feudal system, and that *host of dependents* which was

fed by them : those of the *military* profession, all noble, or what is still worse, pretending to nobility : a *hundred thousand privileged* persons all leagued to support their prerogative of not paying such or such an impost : *Two hundred thousand priests*, unequal indeed as to income, but all uniting in one common system, forming but one whole” :—“*sixty thousand* persons leading a *monastic* life : ”—the *farmers general*, all the agents of the revenue, with their army of fifty thousand men”—“ finally all those belonging to the *long robe*, these parliaments, rivals of kings” :—“ the inferior courts, which were in subordination to the parliaments ; and that swarm of practitioners, who all taken together, levied a tax upon the kingdom which imagination is afraid to calculate. This formidable mass of men was in the possession of all France : they held her by a thousand chains ; they formed, in a body, what was termed *la haute nation*, all the rest was the people. These are the persons whom we have since seen uniting their voices and their clamours against the national assembly ; because with a resolution unexampled, it hath suppressed all the abuses on which they depended for their existence.”†

The people, the nation, demanded states general, which should not be vain and illusive, like those of which history made mention. This whole host of aristocratic and crown connexions, wished no such thing, but if it must be convoked they “ were desirous of states general similar to those which had sit in 1614.”

“ But the third estate, that immense portion of an enlightened and celebrated nation—took fire at being assimilated to the commons, newly enfranchised in the reign of Philip le Bel, and at the attempt to restrict them in 1788 to forms established for the clowns and demi-slaves of 1302.”

“ A considerable number of military officers, who
† *Rabaut's Hist. Revol. p. 43. Amer. Edit.*

had assisted at the revolution of the United States, had brought home with them an indelible remembrance of the charms of equality and liberty, which they had beheld in a nation of brothers. These men who were all nobles, had learned to judge of the vanity of such a title, when compared with that of citizens."

"The notables were for the most part, either princes or nobles, or persons in high office."

The council decreed "that the deputies of the states general should amount to at least, the number of one thousand:—and that the number of the third estate, should be equal to that of the two other orders taken together. These decisions formed the basis of the convocations." "The coalition of the two first orders with the court was well known." It was the determination of these, at the first meeting of the states general, that they should sit and act in three different chambers, and that the crown, with the two superior chambers of the nobility and clergy, should controul the whole, and thus reduce the third estate to a cypher or tame and submissive acquiescence. The third estate, resolved against insignificance, immediately insisted on equality. An altercation arose, which Neckar wished to have avoided, hoping that all might acquiesce in some modifications, very immaterial to him, provided in some manner or other their united wisdom could bring them to amicable agreement in the object of their convocation, a reformed system of finance and laws, agreeable to the general sense of the nation collectively. But this he could not effect. And as the two superior orders persisted in their superiority, the commons or third estate, deeming themselves the true and real representatives of the people, and so of the body of the nation, came to an almost unanimous resolution, to erect themselves into the national council, and to declare themselves, instead of states general, "the national assembly." This was done by June 1789. Thus France in one day lost the states general, and the third

estate became the "national assembly." Immediately the chamber of the clergy, by a majority of one hundred and forty-nine voices against one hundred and twenty-six determined to join the assembly as equals, and a union of the orders seemed probable. The King affected to favor it; but assembled troops. "On the 20th of June three days after the national assembly had been constituted, the members of the clergy were to join it." Court measures were taken to prevent and elude this: and on the 12th July about three weeks after the formation of the assembly, Neckar, not sufficiently coming into the idea of the two superior orders, was dismissed and retired to Switzerland. He foresaw the sanguinary measure resolved on at court in which he would not be concerned. The assemblage of the military force at Versailles by the King, alarmed Versailles, the national assembly, and Paris. It was intended to dispatch a number of the patriots to the Bastile, and to disperse the national assembly. This was the court politics. Sixty thousand Parisians destroyed the Bastile, and the national assembly was in safety. The assembly framed the constitution, made the distribution of the realm into eighty-three communities, abolished the feudal tenures, and the whole was ratified by the King's acceptance on the 4th of August.

The policy of one or three orders was discussed.—Whether the national assembly should consist of two orders or one, was the question. "The equilibrium of three powers, which balance one another, and prevent the encroachment of any one upon the rest, became the object of admiration. But those who favored the idea of an undivided assembly, considered this equilibrium in the constitution of England, no otherwise than as a treaty of peace between three existing powers. "The dignified clergy were inclined to two chambers"—"A large party of the nobles was likewise for the two chambers: but the question concerning the peerage presented

itself, and they became divided ; for the provincial nobility understood that the whole order should freely appoint its representatives, while the nobles of the court, were secretly indulging the notion, that the dignity of the peerage ought to be appropriated to themselves.” “ The majority of the deputies of the commons could see nothing in the upper chamber but a constitutional refuge for aristocracy, and the preservation of the feudal system.” A majority of the clergy, and forty-seven of the nobility had joined the commons in undivided unity and equality. “ Neither did any sufficiently comprehend the system of a senate for life, composed of persons taken from every class of citizens ;—nor of a senate appointed for a stated time, and selected from the whole assembly.” In fine, the assembly decreed, by a majority of nine hundred and eleven voices against eighty nine, that there should be no more than one chamber. It decreed moreover that the legislative body should be renewed every two years by elections.” Thus much for the constitution.

Among other regulations, was that respecting the secularizing of the ecclesiastical estates. It was “ decreed that the ecclesiastical estates were all at the disposal of the nation, subject however, to the charge of providing in a proper manner for the expences of public worship, for the maintenance of ministers, and for the relief of the poor. It was ordered that no parish minister should have less than twelve hundred livres a year, exclusive of the house and gardens annexed to that parsonage. This celebrated decree passed on the 2d of November 1789.” “ The ecclesiastics accused the national assembly of an intention to destroy religion.”—“ The assembly disconcerted this conspiracy, by making constant protestation of its union with the pope, as head of the christian church, with regard to spiritual concerns, and of its fidelity to the religion of our forefathers.” “ The assembly at length decreed that its attachment to the catholic religion of Rome could not be

called in question, at a time when that worship was placed by the assembly at the head of various articles of public expence, and that the majesty of religion, and the profound respect due to it, did not allow of its becoming a subject of debate, since the assembly had no power over consciences." "It had suspended the monastic vows, it finished with suppressing them, and fixed the mode of treatment to be observed with respect to those who had belonged to any of the religious communities," by providing pensions for life. Thus far from St. Etienne.

Extracts from the Continuation of the Hist. Revolution.
V. 2. P. III.

"The extreme point on which the two parties differed, was that of pure democracy on the one part, and the institution of an upper chamber, similar to the British house of peers, on the other. Such an institution, as a remnant of aristocracy, was regarded by the French, with almost as much abhorrence as absolute monarchy itself; while the establishment of it was considered as the great object with the court, as a preliminary step to the annihilation of liberty. The middle party was still numerous; and it was judged that there were many who might secretly incline either to the court or the republicans, who would be well disposed to sacrifice something of their prejudices to the preservation of peace and order." In this state of minds in the national assembly, Lamourette, the patriotic bishop of Lyons, by an instantaneous impulse and without concert, suddenly proposed to the assembly, "Let all who hold in equal detestation, a republic and two chambers, and who wish to maintain the constitution as it is, rise!" The whole assembly rose from their seats. This shews two things on which they were as yet equally unanimous: 1. In having a King. 2. In rejecting a second chamber—adhering to an elective assembly of one order only, with a limited monarch at its head. All were recon-

ciled ; and had the King continued faithful to this experiment of the public mind, all had been well. This was the beginning or 7th of July, 1792. Yet in the course of this month, the public, either with or without reason, became extensively impressed with the idea of the insincerity and duplicity of the King, and that he was in fact in concert with the combined sovereigns, whose object was nothing less than the restoration of the King and former government. This was heightened by the transaction of Fayette. And burst forth from the national people in the bold declaration of Petion, mayor of Paris, on the 3d of August, at the bar of the assembly demanding the deposition of the King. The die was cast. This was followed and supported by such numerous petitions from every part of the nation, as to leave it without a doubt that the body of the nation were heartily weaned from not only Louis XVI. but the very idea of a King, and that the general voice was that their policy should be a national assembly of one order only, whose head should be temporary Presidents, but without a King and without a nobility. This was the mind of France, and has continued so to this day.

The following decree thereupon immediately passed. "The national assembly, considering that the want of confidence in the executive power, is the cause of all our evils, and that this want of confidence has called forth from all parts of the kingdom, a wish that *the authority entrusted by the constitution to Louis should be revoked*, and that the only means of reconciling what they owe to the safety of the people, with their own oath, *of not increasing their own power*, are to submit to the sovereign will of the nation, decree (among other things) "1. The people are invited to form a national convention. 2. The executive power is provisionally *suspended*." And August 13, "The national assembly declares, that the King is suspended ; and that both himself and family remain as hostages." And on the same day the national assembly proclaimed the convocation of "a

national convention, formed of representatives, invested by them (the people) with unlimited powers." On the 21st of September, 1792, the national assembly dissolved, and the same day the national convention assembled from the 83 communities into which France was divided, convened, the monarchy ceased, and the republic commenced. This from the continuation.

Returning and assuming the subject we were upon before we inserted these extracts; the first political convocation of the states general consisted of 1200 members. The nobility 300, the clergy 300, the tiers etat 600. It was the immediate and original intention of the two first, that the states general should sit and act in three separate chambers, and that the concurrence of two should be the act of the whole, subjected however to the veto of the monarch. It was from the beginning the intention and resolution of the last and most numerous, that all should sit, deliberate and act together as pares or equals; and that the majority of votes in this coalesced body, should be the public act. This reduction of the nobility and dignified and ennobled clergy to an equality with the commons, was displeasing.— And an altercation immediately arose on the question whether they should sit in three or perhaps two chambers, or be consolidated into one coequal and fraternal body? At length above half the ecclesiastics, and a part of the nobles renounced their claims of superiority, came over and joined the third estate as coequals. And thus the national assembly was formed.

The contest had arisen, which Neckar could not compose, though he wished to have avoided it; and the commons were determined to proceed by themselves, and not to be lost in balancing commixtures. The nobles, both secular and ecclesiastical, were divided. The king had not foreseen this state of things. It was now too late. There was no alternative between a very new and potent influence in government, and breaking

up of the commons, now already joined by Fayette and a number of the nobles and bishops, and other ecclesiastics, who with respect to the national council openly declared for an equality of nobles and commons; an equality as to eligibility into the national council, was the only equality ever aimed at by France. The Bastille was destined to have decided and determined this alternative. For this purpose the King, whose otherwise benevolent and well intentioned heart, now repented him to have convoked the states general, now terminating, in a national assembly, acceded to a cruel idea: and as he was not prepared for these lengths, he adopted the idea of a dissolution of the assembly by force, and of resuming the old government; doubtless determining still to administer it with the utmost lenity and justice. This mistake led the King secretly to call around him and collect the Swiss guards and a military force at Versailles, and to accede to the severe discipline of the Bastille for a number of the patriots in the assembly, sufficient to break up and disperse it. Rather than go to the Bastille, to which they perceived they were destined, the patriot leaders in the assembly, with the vociferous concurrence of the citizens and populace of Paris, resolved upon seizing the person of the King. The people flew to arms, and led by the illustrious and hitherto patriotic Fayette, who had voluntarily sacrificed his nobility, they, under his leading, seized the King, brought him to Paris, and immured him and the royal family in the Tuilleries. The national assembly formed a constitution, which was established. It was presented to the King, and his consent desorced or gained, henceforth to rule the realm by a King, with still very great powers, though much abridged, and an elective national assembly of one order only, in which nobles and commons reduced to equality, should sit in the legislature as peers or equals, and the whole realm in future, as one great republic, be governed by laws proceeding from this assembly. This was perfectly the

idea and idol of the Marquis de la Fayette. But the body of the noblesse and the royal princes and connexions, endeavored to counteract and break up this system, and prevent its taking effect ; and immediately applied to the emperor and surrounding Kings to bring on a combined army, with a view of restoring the original government, and replacing the King on the throne with his former authority, or perhaps with a national assembly of two houses, that of the nobles and that of the tiers etat. England would have rejoiced in this, because it so nearly resembled their own constitution ; and the emperor would not have been averse to having such an example set before Austria and Europe, for there was a time when he was really friendly to the liberties of the people and the rights of subjects. But the burying and overwhelming the nobility and aristocrats in an assembly of one order, they could not endure. And at all events the King determined upon the eversion and ruin of the Gallic republic.

In this the King concurred in heart, wished to get from confinement, while it was accomplished, saw a prospect of its being accomplished by the combined army, attempted to escape and abdicate ; but was taken, and in effect pardoned and restored, although by the constitution, this attempt to escape was a forfeiture of his crown. Being restored to his former state, here he might have rested. But a powerful army flattering and cherishing his hopes of ultimate success, he suffered himself to be afterwards guilty of betraying the cause by the overt acts of concerting with the Kings and foreign cabinets, and the cidevant princes, and by paying a corps in the army of actual invasion. This being detected, what could save him ? This was his error, and it was fatal to a King who wished to rule with clemency and justice, but whose abilities, discernment and wisdom, were unequal to so critical and momentuous a situation.

Fayette and other patriots, seeing the nation alienated from the King, and ripening for a government without a King, found their views of liberty were transcended : and fixt in the impossibility of a polity without a King, now turned about, and in effect united with the ci-devant princes and foreign Kings in the project of supporting a King at all events ; but with very different views. The aristocrats were for recovering the old government ; Fayette and the patriots for keeping indeed the King, and believing they could modify the polity, and accomplish the acquiescence of the nation in a royal republic of one order, with a King at its head ; while others were for a tripartite division of the realm into three republics, confederated under a national assembly still with a King ; among those for an indivisible republic, some were for a balance of nobles, either hereditary or elective, perhaps composed of both, between the King and third estate. These various ideas seem to have been among those which agitated and divided excellent patriots, as well those who were not for a King, as those who were for one. These are said to have been among the ideas of Condorcet, Autun, Bo-veau, and other genuine patriots, as concurring in a republic without monarchy, though differing on the form of a republic. In this diversity of views, some must give way to that any one polity which should in fact prevail and gain the ascendancy. No wonder Fayette and other excellent patriots should take mistaken and involving steps. To save the King, he entered deeply into the secret councils of the King and the royal family, and so far acted in concert with them, as to become obnoxious and really dangerous to the prevailing counsels of the existing assembly, tenacious of a republic one and indivisible. His attempts to secure the King's second escape, with speeches and conduct offensive to the Jacobin Societies, which he at first set up, a system of fraternities now diffused through the realm, the great conservators of liberty, and assuming great

liberties in announcing and dictating to a national assembly, very willing to be dictated and supported by them, brought on a crisis dangerous to Fayette, who himself escaped and was unfortunately taken. His ideas for monarchy, which I once learned from his own lips in a personal though transient acquaintance and conversation with him, were so fixt, that, although as fixt for a republic of one order and equality, and elective, he could not proceed and go on with his compatriots, he must counteract them; and until he could get over his mistaken idea about a King, he must become totally useless and unfit to take a part in measures which must unavoidably be prosecuted by a body weaned from Kings. Fayette was lost to the cause of liberty, which he adored, and died a martyr to the whim of a King.

The state of the King's mind was such, and such his active secret views and coincidences with the enemies of the republic, that he became unfit for the monarchy, they would have all acquiesced in, could the nation have depended upon the King's sincerity. But all confidence in him was lost. This gave birth to thoughts and devices how he should be disposed of, and laid aside, as he was now useless and dangerous. The nation were by this time possessed of evidence of his not only premeditated but overt treason. They did not want to take the King's life, could they have avoided the danger of his intriguing with the combined powers without it. But this they thought could not be done. And as there was not clearly a provision in the constitution, except in the case of an abdicated King, they resolved to call a national convention to decide the question of the King, perfect the constitution, and take the government upon them. To this convention as soon as formed the national assembly surrendered the whole, and dissolved themselves. The convention, vested with all the authority twenty million of people can give, have adjudged the King, and the justice of their sentence is now committed to posterity and to the world.

It may assist us towards conceiving aright, and with fairness and candor upon great political transactions and events, to contemplate similar events in different states, and the operation of human nature under similar circumstances. Such are the fellow feelings, such the fraternal sympathy of republics in distress and in the conflict for liberty, and such the instruction and consolation, which arise in contemplating the measures which pressing necessity dictates, that these reflexions on the French revolution seem not inapposite to the case of the Judges. And it may still furnish light, to look a little further back upon the origin and progress of regal despotism in France, as that has had its operation on the crown of England, and brought on the parliamentary struggle of 1641.

The Kings of France discontinued the national assemblies of the states generals so long ago as the beginning of the last century, and ruled without convoking them for one hundred and seventy years ; with a growing encroachment on the parliaments, to the total abolition of liberty, and the establishment of rule by royal edicts, registered in the parliaments by royal violence, and enforced by banishments and the omnipotence of the Bastille ; until at length the endurance of the public was exhausted, came to a crisis, and burst forth even in the reign of an otherwise beneficent King, and obliged him, as we have seen, to convoke an assembly of notables, for the purpose of assenting to taxes and revenue laws, and some general regulations for the public good, and no more ; and then to be dissolved. But the assembly of notables, like that of the long parliament, instead of voting taxes and doing no more, went upon other matters than the King or his ministry intended. The King saw his error, and meditated their dissolution. But it was too late. He had shewn the people or nation how to assemble by representation.—These representatives resolving not to be consigned to the Bastille intended for them, commenced the uncon-

stitutional, but justifiable exertions which have terminated in a republic.

The Kings of France had discontinued the national assemblies from 1614. It is proper to remark this date or epoch. This example had not been set before the house of Tudor: but it was recent and in full view of the house of Stuart. James I. felt it, and discovered his longing after the same boon. Charles I. emulating and avidous of the absolute power and despotism of the house of Bourbon, first adventured in imitation of France, and but fifteen years after the house of Bourbon had set the example, to discontinue parliaments, and had the temerity to adventure to rule without them for twelve years: and could he have dissolved and broken up the newly convoked parliament of 1641, England would have lost the use of parliaments forever, as France had lost the assemblies, and Spain the use of the cortes: unless resumed and wrested out of royal hands at the expence of a violent and bloody revolution. The then recent examples of France and Spain, in their Kings getting rid of the controul of national councils, made an indelible impression on the minds of the Stuarts, who meditated and aspired after nothing less for England; and they never believed but that they should finally accomplish it, and establish an uncontrouled despotism. They were mistaken. The convening the parliament of 1641, as of the national assembly of 1789, brought on disquisitions and convulsions, which involved the death of Kings indeed, while the recovery of long lost liberty will justify the vigorous public exertions in both cases. And though many tumults and cruel events may arise in the cause of a just revolution, which would be unjustifiable, and which no friend to order, no judicious and upright civilian would justify, but reprobate, in an ordinary and righteous course of government: yet the cause itself, and *every thing essentially subservient to it*, is justifiable on the highest principles of public right. The cause is good, though it

should sometimes be improperly carried on, and even though it should be unsuccessful and defeated. I think this collation of the houses of Stuart and Bourbon in point to justify resistance to the Stuarts.

Posterity must judge, or rather we may now judge ourselves, whether the negociation between the parliament and Charles I. in 1647, and pacification, was then safe for liberty? Whether such being the delusory heart of Charles, that like his son, he would have duped the nation, and necessitated the resuming a future struggle for the recovery of their rights? and in a word, whether it would not have undoubtedly taken effect, if it had not been for the patriotic and ever faithful army; and so have defeated the end, the justifiable end, for which the parliament had taken up arms? No man now doubts it.

Such was the change in the minds of the patriots themselves in parliament, who herein coincided with the cavaliers and royalists, all the while in parliament, that even Cromwell and Ireton despaired and gave up the cause as gone, and would in 1648 have acceded to terms of peace. Happy was it that at this critical time, Ireton discovered in the saddle the King's letter, which informed their certain destiny, and that of their most courageous and active compatriots. This with the sense of the ever faithful army turned the tables, and produced the resolute, the violent and daring, the justifiable resolution of the army to purge the house, and by the residuary parliament to institute a high court of justice, and bring the King to a trial. Liberty and the cause were overthrown and gone, unless some efficacious and extraordinary measures were adopted by enterprising and courageous patriots. Effectual measures then ought in that case to be taken, constitutional and regular if possible, otherwise if this was impossible as it was, then irregular but at all events effectual ones became justifiable and so ultimately regular. Such measures were adopted. And the reasons of them will

justify and vindicate the purgation of parliament by violence ; the institution of the high court of justice by three hundred members left, though deserted by the Lords ; and the Judges in the trial and just condemnation of the King. " There is but one step between pardoning a tyrant, and pardoning tyranny."† Charles was a tyrant in heart, Louis XVI. was not.

In contemplating this subject and its appendages comprehensively, and in this variety of views, in the lights of the history of nations, and on the great principles of public right, it appears that, in great revolutions and national exertions for the rescue and recovery of unquestionable and acknowledged but lost rights, criminal tribunals must be instituted in a different mode from that of their ordinary appointment : and that there being no alternative between their justification and the surrendry of liberty, they become legal, just and right : that Charles I. for renouncing and ruling without parliament for twelve years, for levying taxes without the consent of the people, and for other violations of the public laws of the realm, and for levying a war against a legal and regular parliament, forfeited not only his crown but his life : that if a King of England was now to do what he did, the nation would not doubt but that he merited death, and would certainly originate a revolutionary tribunal and inflict it : and that if neither lords and commons conjunctly, nor either separately would dare to do it, there must be some other manner practical and legal ; in which case it would rest with the people to do it ; and that almost any manner of instituting it, with the general voice of the community, would render it legal and authoritative. It is idle, in this age of light, to combat and elude the legality of such a tribunal by arguments, whose force will conclude in nothing short of an absolute and certain eversion, prostration and surrendry of liberty. In a review of the whole, this is the summary result.

† *Polit. stat. Europ.* 1792, p. 961.

1. That the judiciary tribunals in different policies, and in the same policy in different ages, have been very differently instituted, while yet any or all of them must be deemed legal and authoritative.

2. That in great revolutions, and national rescues of partial and entire liberty, these tribunals, may be and have been as differently instituted, and yet become vested and clothed with just, legal and plenary authority : and that the high court of 1649 was such a legal tribunal. And

3d. That their sentence was righteous and just. All which will inure to the justification of the Judges.

They achieved a great and important work, and it was well done. Four years after this legal expulsion of tyranny, a national convention furnished the nation with Oliver's excellent polity, which subsisted till his death in 1658. But such was the fatal and mistaken versatility of the nation, that they availed not themselves of this noble foundation, so happily laid, on principles which Englishmen will ever revere and in every exigence recur to, and ultimately establish. And with the downfall and overthrow of this beautiful polity, they brought down upon those illustrious heroes, who had enterprized the glorious though unfinished work, and overwhelmed them with a load of infamy and reproach which a century and half has not been sufficient to remove. Thus the volcano, deluge and eruptions of Vesuvius buried in ruins the beautiful Herculaneum : which after having been lost for seventeen ages, is now emerging into light and admiration. So likewise the first christian martyrs were covered with infamy and ethnical reproach, until the fourth century gave their merits opportunity to relieve and shine with glory in the public estimation ever since. The republican martyrs and heroes of the twenty years period from 1640 to 1660, are now in resurrection in France, Poland, and America, they are beheld with spreading estimation,

and will in future be contemplated with justice and veneration by all nations, who in the vindications of their liberties, will find themselves necessitated to have recourse to the same great, eternal principles of public right, which actuated these great patriots. Among these will be considered the enlightened upright and intrepid Judges of Charles I; who will hereafter go down to posterity with increasing renown, among the Jephthas, the Baracks, the Gideons, and the Washingtons, and others raised up by providence for great and momentous occasions: whose memories, with those of all the other successful and unsuccessful, but intrepid and patriotic defenders of real liberty, will be selected in history, and contemplated with equal, impartial and merited justice: and whose names, and achievements, and SUFFERINGS will be transmitted with honor, renown and glory, through all the ages of liberty and of man.



C H A P. VI.

Memoirs of THEOPHILUS WHALE.

THERE was a very singular man, who lived and died at Narraganset, whose history arrested my attention, when I first settled at Newport, 1755; and upon whom I have spent much pains in making inquiries, because he is universally considered there as one of the regicides, and I always and uniformly disbelieved it. I was told much about him by Jeremiah Niles, Esq. the honorable Simon Peas, of Newport, the reverend Mr. Joseph Torry, minister of South Kingston, and the honorable Francis Willet, on whose farm Whale lived, and who knew him well. When detained from time to time, especially about 1758 and 1760, at Narraganset ferry, I used often to talk with a Mr. Smith

of that vicinity, and other aged persons, who knew Whale, and believed him to have been one of the the Judges. They all said he came there from Virginia, at the beginning of the Petaquamscot settlement, which was soon after Philips' War, 1657, and the Great Swamp Fight. But as my best information came from Colonel Willet, I will give some account of this gentleman.

Colonel FRANCIS WILLET, of North Kingston, Rhode-Island, died and was buried in the family burying place on his own estate, one mile north of Narraganset ferry, February 6, 1776, aged 83. He was descended from Thomas Willet, the first mayor of New-York, who died at Barrington, Rhode-Island, 1674, aged 64. He came a young merchant to Plymouth, 1629, was conversant in the fur and Indian trade of the whole coast from Kennebec to Hudsons River, became very opulent, and settled on a plantation at Swansey, now Barrington, where remains his grave six miles below Providence. Being an intelligent and respectable person he went as a counsellor on board Col. Nicols' fleet, at the reduction of Manhados 1664; and was by him appointed mayor of the new conquered city. He owned houses in New-York and Albany. The Dutch resuming the government. He afterwards returned to his settlement and died at Barrington.

On the stones at his grave there is this inscription.

(Head Stone.)

"1674.

*Here lyeth the Body
of the worthy*

THOMAS WILLET, Esq.

*Who died Aug. the 4th,
in the 64th year of his age,
Anno."*

(Foot Stone.)

*Who was the
FIRST MAYOR
of New-York;
And twice did
sustain that place."*

He had three sons, Hezekiah, James and Andrew, by his wife Mary the daughter of John Brown, Esq.

Hezekiah was killed by the Indians 1675. James lived on the paternal estate. Andrew was first a merchant in Boston till 1680 : he then removed and settled on Boston Neck at Narraganset ferry and died there 1712, *Æ* 56, leaving two sons Francis and Thomas, and a daughter. Thomas died a bachelor and left the whole family estate to the possession of Col. Francis Willet, who married and died without issue. This is the gentleman with whom I was intimately acquainted. He was educated a merchant, but did not pursue commerce. He had a good genius and was a man of much reading and information. And settling himself on his paternal estate, being very opulent he lived the life of a private gentleman ; he was hospitable and generous, of excellent moral, and a very estimable and highly respected character. The fine tract of Boston Neck was principally owned by the Sewalls and other gentlemen in Boston. This with his father's former residence in Boston, and transacting business for these Boston landholders and for Harvard College brought him into an acquaintance with the first characters at Boston, who often visited him thro' life, and gave him great public information. Once a year these gentlemen visited their estates and at his father's house ; and after his father's death 1712, the management and superintendence of these estates and of the college estate, together with the extensive Willet family acquaintance fell unto Col. Francis Willet, whose aunts had married into minister's families, Wilton in Massachusetts, and Hooker in Connecticut. The Willet farm was a tract extending from Narraganset ferry northward perhaps one mile and an half in length, on the Bay, and about one mile or more east and west from the Bay, across to the oblong pond called Petequamscot, and was the original seat of the great Sachem, Miantinomy. At the north end of this pond and on the Willet farm, was settled Theophilus Whaley, or Theophilus Whale, who came there from Virginia, about 1679, or 1680. He affected to live in

poverty and obscurity and retirement : and built himself a little under-ground hut in a high bank, or side-hill, at the north end or head of the pond, and subsisted by fishing and writing for the Petequamscot settlers.— He was soon found to be a man of sense and abilities ; and it was a matter of wonder, that he refused to live otherwise than in a mean and obscure manner. From his name he was early suspected to be the regicide ; and being questioned upon it, his answers were so obscure and ambiguous, that they confirmed his acquaintance in that belief ; which I found fixt and universal at Narraganset in 1755, and which remains still so there and at Rhode-Island to this day ; and among the rest, indubitable in the mind of the sensible and intelligent Colonel Willet. This made me curious to inquire the history of this singular good old man, as the Colonel used to call him, and of whom he talked with great pleasure, and seemed as if he could never say enough of him. He told me many anecdotes. And when I used to say that Whalley died at Hadley, he always denied it, saying that one indeed of the Judges died at Hadley, but the other went off to the westward, secreted himself awhile at Virginia, but being in danger there, he secretly fled and buried himself in Narraganset woods, and lived a recluse life to the end, and that this Theophilus Whale was the man, notwithstanding the change of the christian name, which the Colonel supposed he did designedly. In confirmation of this opinion, he told me many anecdotes. When he was a boy, he said, several Boston gentlemen used once a year to make an excursion and visit at his father's house. As soon as they came they always enquired eagerly after the welfare of the good old man : and his father used to send him, when a boy, to call him to come and spend the evening at his house, As soon as Mr. Whale came in the gentlemen embraced him with great ardour and affection, and expressed great joy at seeing him, and treated him with great friendship and respect. They spent

the evening together with the most endearing familiarity, so that the Colonel said, he never saw any gentlemen treat one another with such apparently heart-felt cordiality and respect. He used to wonder at it, and could not account for it. They kept shut up in a room by themselves, and there seemed to be an air of secrecy about the matter. Their interviews were in the evening only, and continued late in the night. Just before they broke up, he used to observe that one of gentlemen would take Mr. Whale by the hand, and they walked out into the lot, and returning, another took him out, and so all the others singly and by themselves. He did not know for what reason this was done. But when the gentlemen were gone, Whale always had plenty of money. And the Colonel told me that he did not doubt but that they all gave him money in this private and secret manner. He frequently mentioned the names of the gentlemen, and they were some of the first characters in Boston about the beginning of this century. The Secretary was one, and Judge Sewall another. Whale never let Colonel Willet know his true history; but comparing this singular treatment with Whale's manner of life, he was convinced, he said, that he was a secreted regicide.

Colonel Willet told me that, in Queen Ann's war, he remembered a ship of war came up the Bay and anchored before his father's door. The name of the captain was Whale, and he was a kinsman of Mr. Whale, who lived but one mile off, and made him a visit, when they recognized one another with the affection of kindred. After an agreeable interview, the captain invited Mr. Whale to dine with him on board ship; he accepted the invitation, and promised to come. But upon considering further of it, he did not adventure on board, rendering as a reason, that this was truly his cousin, yet he did not know but possibly there might be some snare laid for him to take him. Colonel Willet was personally acquainted with this fact, and indeed it was

known to all the inhabitants around, who tell of it to this day: 'This confirmed them all that this was Whalley the regicide.

Many other anecdotes he has told me, and that he wrote Whale's will ; that he lived to a great age, and that he died 104 years old ; that a little before his death he removed to his daughter's, about ten miles off, where he died and was buried.

Governor Hutchinson's history was first printed 1764, and Colonel Willet soon read it. Dining with him soon after, he said to me at table, "Tell Governor Hutchinson, I know more about Whalley than he does—I personally knew him, and was intimately acquainted with him—he lived and died at Narraganset, and not at Hadley." As I had a correspondence with the Governor, who had sent me his book ; I wrote and informed him what his friend Willet said. The next year the Governor was on a visit to Newport, and brought with him a volume of Goffe's original journal and an original letter, and shewed me and convinced me what I did not doubt before, that Whalley lived and died at Hadley. This he also shewed to Colonel Willet, who became convinced that Theophilus Whale was not Edward Whalley ; but never to his death gave up the belief that Whale was one of Charles's Judges,, altho' why he should upon changing his name assume that of so obnoxious a person as Whalley, was to him a paradox.

I have often conversed with him upon it. And we went into the supposition that Whale was really Goffe, whom general tradition spoke of as leaving Hadley and going off westward toward Virginia, and so from thence might abdicate into Rhode-Island. But the name was an insuperable difficulty. I conversed with several of the descendants of Whale at different times for a dozen years after, but could get no satisfactory lights. Hutchinson left with me for half a year an original letter of Goffe to his wife, that I might compare the hand wri-

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WARWICK

Gov. Greene


W. GREEN

E. GREENWICH


 Grave of
○ Theo Whale

EXETER

NARRAGANSETT

N^o KINGSTON

Mr Theo. Whales
Residence from
1680 to 1715
○

Col. Willits


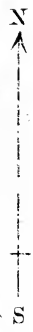
Ferry

S^o KINGSTON

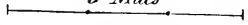
Boath Neck

NARRAGANSETT BAY

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ting with some of Mr. Whale's among the people of Narraganset, where Colonel Willet told me it might easily be found, and engaged to procure me one of his deeds. He did not do this till Goffe's letter was sent for and I returned it. Since that I have made fundry fruitless attempts to see some of his writing with his name to it: and so long ago as 1766, one of the family brought me a piece which he said was his grandfather's writing, but there was nothing which proved it, and I doubted it. I did not give up the inquiry till 1785. The descendants of all the families springing from Theophilus Whale universally believe their ancestor was one of the regicides, but concur in it that he never revealed it to his family or any one else. Colonel Willet used to tell me of a Mrs. Spencer, about 90 years old, a daughter of Mr. Whale. She survived to 1793. I always intended to have seen her, but never did. I got her son-in-law, Othniel Gorton, Esq. to inquire of her in her life time, who sent me word, she did not doubt her father was one of the Judges, but that he never revealed himself to his family.

At length turning out of my way on a journey, I visited, in 1783, Samuel Hopkins, Esq. aged 81, of West Greenwich, a grandson of Whale, and living on his grandfather's farm. He was a man of good sense and accurate information, had been in civil improvement, a member of assembly and judge of the court.—He freely and readily communicated all he knew.—From his mouth I wrote down the following information:

Mr. Theophilus Whale, and Elizabeth his wife, came from Virginia and settled in Kingston in Narraganset. He married his wife in Virginia; her name was Elizabeth Mills. Their children were,

Joane Whale—ob. aged 60 or 70.

Anna Whale—ob. single, no issue.

Theodosia Whale, married Robert Spencer, ob. before 1741.

Elizabeth Whale, married Charles Hazelton. ob.

Martha Whale, married Joseph Hopkins, father of Judge Hopkins, and then married Robert Spencer. ob. 1773, aged 93—so born 1680, and born in Narraganset, as the Judge told me.

Lydia Whale, married John Sweet. ob.

Samuel Whale, married 1st Hopkins, 2d Harrington.

Judge Hopkins, son of Martha Whale, was born in Kingston, January 1705, and is now aged 81, (1785) and remembers his grandfather Whale, who died aged 103, the year he could not ascertain, but it was when the Judge was a young man grown, of age 16 or 18.—He said his grandfather talked Hebrew, Greek and Latin, as he well remembers often to have heard him ; that he had a Greek bible, which he constantly used, and which has been in Judge Hopkins's keeping almost ever since, but is now lost, or he knows not what is become of it. He had a great desire to teach his grandson, Samuel Hopkins, Latin and Greek when a boy, and used to try to persuade him to learn it, and did begin to instruct him in it ; and that he wrote much in the Petaquamscot purchase ; and also that he was a large tall man, six feet high when 100 years old, and then walked upright ; not fat, but thin and lathy ;—an officer, a captain in the Indian wars in Virginia, and had been an officer in the parliamentary army in England.

Judge Hopkins remembers his grandmother Whale, a smart tight little woman, a mighty doctress, as he said. She died aged perhaps 70 or 60, and perhaps seven or ten years before Mr. Whale, and was buried in Kingston not far from the church. After his wife's death, Mr. Theophilus Whale removed up to West Greenwich to his daughter Spencer and died there, and was buried in Judge Hopkins's lot, where he shewed me his grave, but cannot remember the year of his death, though he well remembers his attending his su-

neral and saw him deposited in his grave ; he was buried with great respect, and the Judge told me with military honors. His grave lies in West Greenwich, about six miles nearly due southwest from East Greenwich court-house and Narraganset Bay, one mile west from East Greenwich line, and a mile north of Exeter line. It has no stone or monument.

The Judge told me his chief residence was at the head of Petaquamscot Pond, at the north-west corner of Col. Willet's farm, and that there he brought up his children. For his writing for the north Pataquamscot purchase, the proprietors gave him a tract of land, the farm on which the Judge now lives, of 120 acres, lying in West Greenwich, though then a part of East Greenwich.— He shewed me the original deed, dated 1709, under the hands and seals of perhaps fifteen or twenty proprietors : Indorsed with an assignment dated February 20, 1711, to his son Samuel Whale, by Theophilus Whale, in his own hand writing, in which he signed his name Theophilus Whale, in good free writing, but his wife signed by her mark. It was indorsed with another assignment under it, on the same deed, by exchange from Samuel Whale to Joshua Hopkins, the Judge's father ; but Samuel Whale signed by his mark. As this was the first certain writing of Theophilus Whale which I had ever seen, I viewed it with close attention, to see if I could recognize the writing of Goffe's letters shewn me by Governor Hutchinson near twenty years before, but I could not recollect a similitude. This was a sharp running hand ; Goffe's, according to my memory, was more of a blunt round hand.

The Judge told me that old Mr. Whale never would tell his true history. The most he talked about as to himself was, that he was of good descent and education in England, and I think of university education ; that in Virginia he was much in the Indian wars, and an officer ; that he there married a young wife when he

was old, but no tradition that he was ever married before in England or America; that he had some difficulty in Virginia about the dissenting way of worship, but was permitted to come away, as Mr. Hopkins expressed it, who also said he was a First Day Baptist. For the first years of his living at Narraganset he followed *fishing* in Petaquamscot Pond—at length *weaving*, and in this he spent most of his life. After about thirty years his children settled off and left him alone. His wife used also to make long visits to her daughters, especially Spencer, and leave the old man to shift for himself. He at length was to have a dozen acres of land off the Northorp's farm, not far from the head of Petaquamscot, who were to build a house for him and his wife, and he was to keep school for the Northorp family. But his wife dying perhaps about 1715, he gave up the project of the house and school, and went to live with his daughter Spencer at Greenwich, where he died. His last years were spent in solitude and without labour; yet his body and mind were sound to the last. The Judge could not recover the year of his death, though his age, he said, was 103 when he died. This is the substance of the Judge's information. He said that Joane and one or two of the first children were born in Virginia.

Judge Hopkins further told me that Samuel Whale, the only son of Theophilus, settled and lived and died at South Kingston, on a farm which his father Hopkins exchanged for Samuel's farm in Greenwich; upon which his father removed and settled on the Whale farm, in Greenwich, and Samuel settled in Kingston towards Point Judith. He said that Samuel married two wives, first Hopkins, and then Harrington. By the first or Hopkins venter, he had children, sons, for he said nothing of daughters.†

† *Miss Nelly Hazeltin, living 1793, says Samuel Whale had five sons and two daughters.*

Thomas Whale,	} By Hopkins venter.
Samuel Whale,	
Theophilus Whale,	} By Harrington venter.
James or Jeremy Whale,	
John Whale,	

And that from these all the Whales in Narraganset and Connecticut descended: and there is a number of families of this name, several of whom I have seen and conversed with, but their family information is only general and not accurate; although they all believe their ancestor was one of Charles's judges to this day, for none of them have accurately investigated the matter.

Mr. Spencer married two sisters, first Theodosia Whale, and after her death he married her sister, widow Martha Hopkins, mother of the Judge, and mother of the wife of Othniel Gorton, Esq. with whom she died.

There was indeed another Whale from Theophilus, but not from Samuel. Joane, the eldest daughter of old Theophilus never was married: yet had two children, who went by the name of Whale, Lawrence Whale and Mary Whale. Lawrence lived many years in Narragansett, and afterwards went away towards Hudson's river. Judge Hopkins did not know his birth, but if then living in 1785, he judged he would be aged 95, or certainly 12 or 15 years older than Judge Hopkins was, and so his birth about 1690. Doctor Torry, who was born October 19, 1707, was well acquainted with Lawrence, and judged him 15 years older than himself, which would bring his birth 1692, which shews Joane of the age of parturition, 1692, aged 15 or 20, implying her nativity as far back as 1670, or 1671, for Elizabeth, her sister, younger than Joane, was born in Virginia about 1672, shewing that Theophilus Whale was married in Virginia so long ago as 1670, or before. Though Judge Hopkins knew it not, yet Mr. Northrop, of North Kingston, afterwards told me that Lawrence died before the war 1775, near Ticonderoga, and I

think was never married, so that no Whales proceeded from him ; but all the New-England Whales descended from Samuel, of South Kingston, the only son of Theophilus. Judge Stephen Potter, of Coventry, was personally acquainted with Samuel Whale, and told me that he died about 1782, aged 77, so born 1705. Yet I believe he was of age 1712, when he made the assignment of his farm, and so was born 1691, the last of Theophilus's children. As we can get no records or family writings, we are obliged to use these deductions and inferences from traditional ages.

Upon my request, Ray Green, Esq. son of Governor Green, of Warwick, sent me this information in a letter, dated September 30, 1785—"The grand-daughter Nelly, by Elizabeth Hazelton, a communicative old maiden, informs me that Mr. Theophilus Whale, her grand-father, was derived of a very genteel family in England, and very opulent ; but through some mis-step he was supposed to be disaffected to royalty ; which occasioned his quitting England and retiring to America ; in a province of which, Virginia, he married Elizabeth Mills, and removed to Narraganset ; having first had two children in Virginia, *Joane* and *Elizabeth*. The other children were born in Narraganset, except Martha, the place of whose nativity is uncertain. Elizabeth, who married a Hazelton, lived to the age of 79, and died in 1752. The old gentleman having lost his wife and settled his children, resided the remainder of his days with his daughter Hopkins, afterwards Spencer, in West Greenwich, where he finished his days at 110 years."

October 29, 1782, I fell in with the aged Mr. Hamilton, aged 86, at North Kingston, so born 1696, who told me he was at the funeral of old Theophilus Whale, who died when he was a young man, though married, and then aged about 23, so about 1719 to 1722, that he was about 100 years old, and had five

daughters, whom he well knew: and that Mrs. Spencer (once Hopkins) died at East Greenwich, August 1782, aged 98, or would have been 98 in September 1782, that she always enjoyed good health, and died a Quaker. Her son says she died 1773, aged 93.

Col. Willet and the reverend Mr. Torrey used to tell me many other anecdotes of Theophilus and his wife. The wife was a notable woman, a woman of high spirits, and often chastised her husband for his inattention to domestic concerns, and spending so much of his time in religion and contemplation, neglecting to repair and cover his house, which was worn out and become leaky and let in rain in heavy storms, which used to set her a storming at him. He used to endeavor to sooth her with placid mildness, and to calm her by observing in a storm, while the rain was beating in upon them, that then was not a time to repair it, and that they should learn to be contented, as it was better than sinners deserved, with other religious reflexions; and when the storm was over, and she urged him, he would calmly and humourously reply, it is now fair weather, and when it did not rain they did not want a better house. He was often asked, why he always lay on a deal board, and refused a feather bed; he replied, that a feather-bed was too good for him, for he was a man of blood, and ought to mortify himself. He led a pious, but recluse and austere life. He had not many books. This from Colonel Willet. He sometimes said that when he was young he was brought up delicately, and that till he was eighteen years old, he knew not what it was to want a servant to attend him with a silver ewer and napkin whenever he wanted to wash his hands. The true character of Whale remains unknown. It is most probable that, like Axtel and others, he had a command among the guards that attended the King's trial and execution, and was very active in compassing the King's death. That afterwards, like Lord,

Say and others, he relented and conscientiously condemned himself, thinking he had committed a heinous crime, and that blood guiltiness was upon him, which made him go mourning all the rest of his days with sorrow, contrition and penitential humility. Others concerned in that transaction were afterwards deeply affected in the same manner all their days; while those who are satisfied the cause was good, and the sentence on the King was highly just and righteous, will as humbly trust and confide in it that these immediate actors have long ago found, at the tribunal of Eternal Justice, that their heartfelt and sincere repentance was founded in mistake and misconception of atrocious wickedness and high criminality, in what was one of the most meritorious acts of their lives.

And now that I am collecting the flying rumours and anecdotes concerning Whale, I will in this connexion bring together scattered rumours concerning some others—In different parts of the country we come across flying traditions and surmises ventilated abroad, of three other persons believed by some to have been also Charles's judges who fled to America. One was George Fleetwood, who was tried, condemned and pardoned, and certainly came over to Boston and lived there in an open manner, and died in Boston.† He, and Whalley and Goffe and Dixwell, were unquestionably of the real judges, and those four were the only real and true judges that ever have been known to have come to America. It is however believed by some, that Adrian Scroope, who certainly lived at Hartford in Connecticut, 1666, and soon after returned to England, was the real judge Scroope. In evidence of which, this is adduced.—Superadded to a certain instrument or deed, dated March 21, 1663—4, recorded in Hartford records, is an attestation dated March 8, 1666—7, and recorded March 11, 1666—7, signed by the names of Robert Peirce and Adrian Scroope, as witnesses, with their own hand

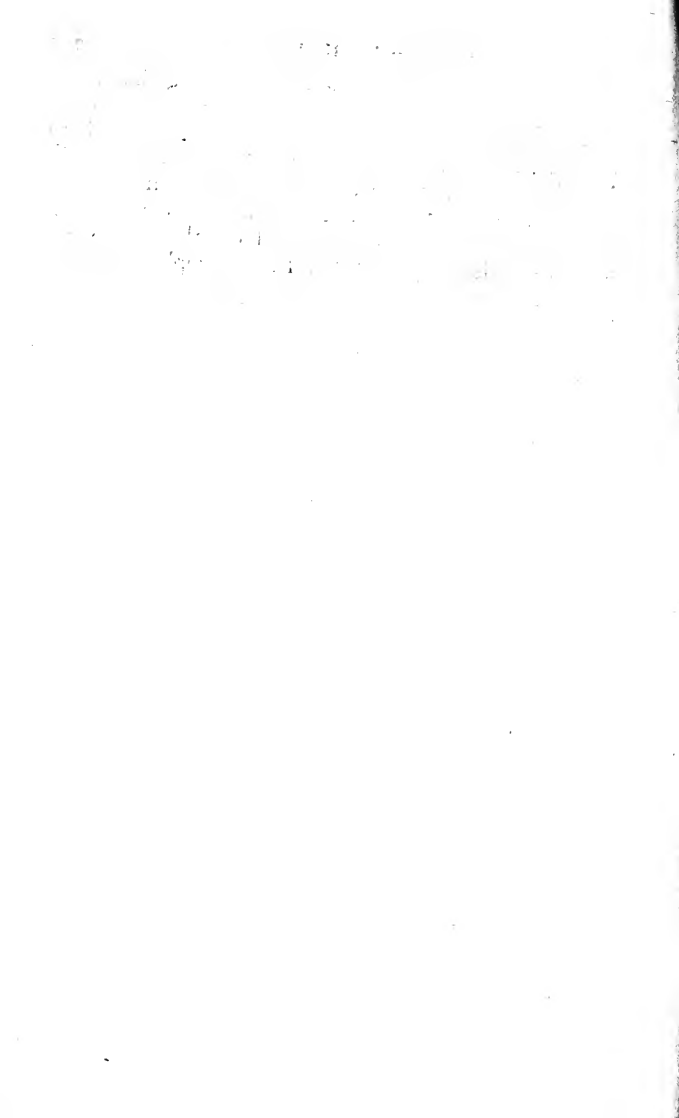
† *Noble V. 2. 334.*

Thus I have collected and brought together all the various and scattered information to be found concerning this singular person : whose history is not even hitherto known by his family and the inhabitants of Rhode-Island, nor by any one else, in the light in which I have now set it : while however I trust I have exhibited such documents and proofs as will enable every one to make a decided judgment, that Mr. Theophilus Whale, whoever he was, was not one of King Charles's Judges..

FINIS.

E R R A T A.

PAGE 43, l. 29, for College, r. Colony---44, 27, Eyres, r. Ayers---71, 32, dele with---76, 11, Providence Hill, r. West Rock---73, 30, & 74, 28, dele Providence Hill---79, 9, house, r. farm---86, 13, after cellar, dele period---93, 27, Providence Hill, r. W. Rock---181, 38, 1789, r. 1689---187, 27, placed, r. planned---224, 24, or, r. of---225, 9, judged, r. judges---232, 27, dele but---233, 37, tradio, r. traditio---234, 35, rivited, r. united---336, 8, party, r. particularly---14, affairs, r. offices---237, 19, Cardinal, r. cordial---251, 32, delusive, r. elective---35, after it, add was---36, elective, r. election---252, 2, use, r. esse---34, there, r. then---256, 1, infidious, r. invidious---257, 34, additions r. additious---259, 21, idem---260, 18, additions, r. additional---263, 20, his, r. this---269, 30, hear, r. have---273, 1, rejoined, r. rejoiced---284, 33, dele swinish. 296, 32, after local, add but---299, 24, name, r. main---300, 4, and, r. of---303, 7, their, r. this---304, 5, 1796, r. 1766---14, Ireland, r. Iceland---311, 16, Revelation, r. Resurrection---314, 9, Reins, r. Riches---322, 18, true, r. three---331, 18, king, r. kings. 338, 30, relieve, r. relive.



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